

NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971

ENFORCEMENT NOTICE

2 E.98
0099

To: Mr. A. Olding,
Of: Crossroads Farm,
Chelworth,
Cricklade.

The North Wiltshire District Council (hereinafter called "the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 in this matter HEREBY GIVE YOU NOTICE as the person owning and occupying the land described in Schedule 1 hereto (hereinafter referred to as "the said land") that:-

1. It appears to the Council that there has been a breach of planning control after the end of 1963 in that the said land has been developed in the manner described in Schedule 2 hereto without the grant of planning permission required in that behalf.
2. The Council in pursuance of the powers contained in the said section 87 and considering it expedient to do so, having regard to the provisions of the development plan and to all other material considerations, HEREBY REQUIRE you within two months of the date when this notice takes effect to take the following steps to remedy the said breach of planning control, namely:-
 - (i) To cease all business uses on the land, other than those for which planning permission has been obtained.
 - (ii) To remove all vehicles which are not connected with the agricultural use.
3. THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88 (3) of the Town and Country Planning Act 1971, at the end of the period of thirty-five days beginning with 2nd day of September, 1976.

SCHEDULE 1

Land known as Crossroads Farm, Chelworth, CRICKLADE, Wiltshire, more particularly described and hatched black on the map annexed hereto.

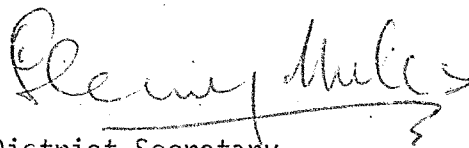
SCHEDULE 2

The making of a material change in the use of the land namely to use for the purpose of:

- (i) a haulage business.
- (ii) the stationing of haulage lorries.

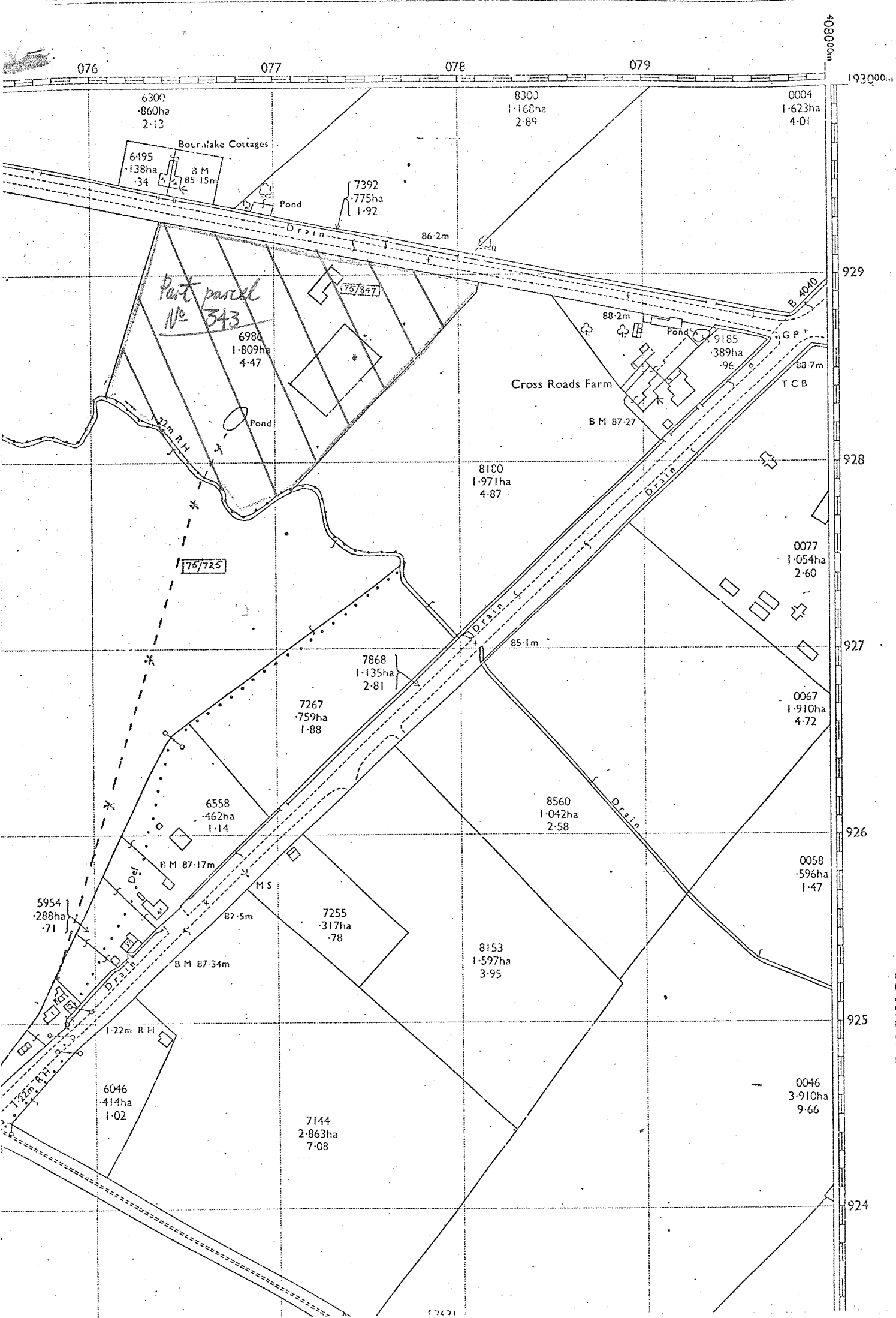
Dated 2nd September, 1976.

Signed



Solicitor, District Secretary.

North Wiltshire District Council,
Monkton Park,
Chippenham,
Wiltshire.
SN15 1ER.



SU 0892-0992

NORTH WILTSHIRE DISTRICT COUNCIL

APPEAL

by

MR A OLDING

against an

ENFORCEMENT NOTICE

Inspector: D O Morgan BA FCIT

Date of Inquiry: 13 April 1977

File No: APP 5408/C/76/4797

Tollgate House
Houlton Street
Bristol
BS2 9DL

29 April 1977

To the Right Honourable Peter Shore MP
Secretary of State for the Environment

Sir

I have the honour to report that on 13 April 1977 I held an inquiry (in place of Mr T A K Savage), at Wootton Bassett into an appeal by Mr A Olding under Section 88 of the Town and Country Planning Act 1971, against an enforcement notice served by the North Wiltshire District Council.

The site is at Chelworth Lodge near Crossroads Farm, Chelworth, Cricklade.

1. a. The date of the notice is 2 September 1976.
b. The breach of planning control alleged in the notice is the making, without the grant of planning permission, of a material change in the use of the land for the purpose of a haulage business and the stationing of haulage lorries.
c. The requirements of the notice are to cease all business uses on the land, other than those for which planning permission has been obtained and to remove all vehicles which are not connected with the agricultural use.
d. The period for compliance with the notice is 2 months.
e. The appeal against the notice was made on grounds 88(1)(a) and (g).
2. This report includes a description of the appeal site and surroundings, the gist of the representations made at the inquiry, my findings of fact, conclusions and recommendations. Lists of appearances, documents and plans are attached.
3. The evidence was not taken on oath.

THE SITE AND SURROUNDINGS

4. The appeal site is located on the south side of the third class county road (C70), 200 yds west of the crossroads with the B4040 and about 2 miles south-west of the centre of Cricklade. Swindon lies some 7 to 8 miles to the south-east.
5. The site area is 4.47 acres. It has a frontage to the road of 200 yds and an average depth of some 150 yds. The frontage hedge has been cut down to about 3 ft fully exposing the site from the road. The eastern boundary hedge is straggly and deciduous, as is the hedge along the southern boundary. The western boundary is a fence separating the site from a field.
6. The visible surroundings of the appeal site within a radius of 300 yds or so are of farmland, mostly used for pasture or arable purposes and dotted with farm houses and buildings near the roads. The land slopes from north-east to south-west and is quite soft and boggy at and beyond the southern boundary of the appeal site.

7. The site has 2 main structures on it. There is a substantial new house at the point marked 'Y' on Plan 'B' which faces the road and not south-eastwards as depicted on Plan 'A'. Construction work is still going on around this dwelling. The building at 'X' on Plan 'B' no longer exists. There is a very large new agricultural building to the south-east of the dwelling in the position shown on Plan 'A'. This building is 150 ft long, 90 ft wide, 14 ft high at the sides and an estimated 20 ft at the ridge line. There is a concrete hardstanding 41 ft wide on its northern side, a hardened but unmade area 33 ft wide along its eastern side and rather narrower areas around the southern and western sides. The building and the hardstanding around it is separated by fences from an area of pasture to the south and an enclosed horse riding area fitted out with jumps to the west.

8. The bulk of the large structure is divided into 2 open rooms or spaces. The larger, comprising about 6/10 of the whole, is now in use as an indoor riding ring but it shows evidence of having been used for cattle. The main exit is to the south but there is a door leading to a passage on the western side of the building. This ring was empty at the time of the site visit and there were no cattle in the surrounding pasture. The remaining 4/10 of the major bulk of the building is in use as a vehicle repair and servicing workshops. There were 5 vehicles being repaired or serviced by 2 men at the time. Two of the vehicles showed signs of accident damage. The room had a bricked up store for vehicle spares in one corner, a number of fuel tanks, a fork lift truck, a powered ramp, various lubricating equipments, powered tools and a quantity of stores awaiting shipment. The room was electrically lit and heated. Access to it was by large sliding doors in the northern side of the building.

9. Along the full length of the western side of the building was a partitioned area which contained 2 offices at the northern end both fitted with telephones and office equipment, 6 horse loose boxes, 3 of which had horses in them, 2 toilets, a large tack room containing a substantial quantity of riding equipment, and an open area where animal feeding stuff was stored. There is access to this area from the northern and southern ends of the building. A lean to structure was fitted to part of the southern side of the building. This covered bales of straw and a tractor with a trailer. Beyond the hardened area on this side of the building there were 2 chicken huts. One large 16 ton truck and two 35 cwt vans were also parked in this area. The vehicles had painted signs indicating 'Silver Arrow Express'.

10. Vehicle access to this building is by a concrete roadway along the eastern side of the site from the junction with the main road. The dwelling has an unmade access which also starts at this junction point but runs beside the roadside hedge. At the access junction the C70 is 19 ft 3 ins wide with 10 ft grass verges on either side. The road is straight in both directions. From a point 7 ft back from the edge of the carriageway visibility to the west is in excess of 300 yds, and to the east it extends for 200 yds to the crossroads with the B2040. When measured from 20 ft back visibility to the west is reduced to about 200 yds and that to the east to about 100 yds. There is a tree in the frontage hedge and a 2 rail wooden fence to the east of the access junction which restricts visibility to some extent but not seriously.

11. The C70 carries a sign at the crossroads indicating that its use is limited to vehicles under 3 tons unladen weight except for access. There is no speed limit (other than the normal 50 mph restriction) and it was evident that traffic moved very fast along this stretch of road. The C70 traffic was controlled at the crossroad with the B4040 by a 'Give Way' sign, but otherwise the crossroads presented no special problems.

THE CASE FOR THE APPELLANT

The material points are:-

12. He lives in the dwelling known as Chelworth Lodge on the appeal site. He bought the appeal site and the adjoining $5\frac{1}{4}$ acre field to the west in 1970. At the time both the site and next field were part of Crossroads Farm which is located to the east. The appeal site was pasture land in 1970 and there were no buildings on it then. At first he kept horses on the land. In 1973 he received consent to erect the large building as a calf rearing unit, and he has used it as such for most of the time since. In 1975 he received planning permission to erect the dwelling subject to a condition that it be occupied by an agricultural user.

13. He is also managing director of A and M Olding Ltd, trading as Silver Arrow Express Freight Services, which was based on the Cheney Manor industrial estate in Swindon until October 1975 on a 21 year lease. The business once operated 32 vehicles but it has been reduced to a fleet of 14 at present because of the down turn in trading conditions from 1975 onwards. These 14 vehicles include 2 x 16 ton lorries, 2 x $8\frac{1}{2}$ ton lorries, 8 x 35 cwt vans (of which 4 are let out on contract hire) and 2 transit vans. He now employs 12 men of whom 2 are fitters. Most of the business is with industrial firms in Swindon making high cost electronic equipment and is for delivery of stores to their customers who range from North Sea Oil operators in Aberdeen to others located in Europe. Other types of business are considered, including the carriage of agricultural products, but these are not his principal source of work. The nature of his contracts with electronic firms in Swindon makes it necessary for his business to be based close to the town and the M4. He cannot move very far away as his labour force largely comes from the Swindon area and it would be uneconomic to do so. His vehicles are sometimes away for 2 days or more at a time and operate from his base at very early or late hours in the day.

14. In 1971 he applied for planning permission to move his business to the area of land he owned at the appeal site and the adjoining field. This was refused in 1972 as was his subsequent appeal. (Document 7). In August 1975 the rent for his premises in Swindon came up for review, and he was faced with an increase of rent plus rates from £3,440 per annum to £8,500. As business was bad at this time and he had made losses in 1974 and 1975, he gave up his lease there and moved to the appeal site. Since doing so he has managed to reduce his overheads and has made a small profit of about £2,000.

15. Since August 1975 he has been looking for an alternative site in the Swindon area for his business. He has been to the Thamesdown Borough Council and registered with all the estate agents in the town. No suitable site which he could afford has come to light. He is still looking for one. The appeal site is meanwhile very suitable for his purpose. If the notice is upheld he will be in great difficulty, and if he is not given much more time than the stated 2 months he will have to go into liquidation which means his men will be out of work. If consent is given he is prepared to limit his business to its present size and confine it to the area hatched black on Plan D. As a second best alternative he would accept a temporary permission for 12 months, subject to a review at the end of the period.

16. In November 1975 he was visited by the council's enforcement officer who inspected his premises. The appellant enquired whether the council would be likely to grant planning permission for his haulage business on the appeal site, and was told that they would not. That is why he has not submitted a new application although he had considered doing so. At this time his impression was that the enforcement officer believed that no enforcement action would be taken as the predominant use of the appeal site was agricultural.

17. He wishes to continue the agricultural use of the appeal site including the calf unit and the adjoining field. When it first started the calf unit held 50 head but this business suffered badly when agricultural feeding stuff costs went through the roof in 1975 and 1976, and there was a slump in beef prices. His plans now for agricultural development are necessarily limited by his meagre financial resources and the small area of his land but he believes he can survive if he can operate there in conjunction with his present haulage business. He could not make the agricultural use viable on its own account. The land is subject to flooding and there is not much scope for agricultural development. The only possible use is some form of intensive farming with the calf unit.

18. While the immediate surroundings of the appeal site are predominantly agricultural there are a large number of industrial and commercial uses in the area many of which have come there since the refusal of this 1971 application. He submits a list of these uses (Document 4) with a plan showing their location (Plan C). Particular attention is drawn to the new gravel pits $\frac{1}{2}$ mile away (item 2) with the adjoining factory complex (item 3), the plant hire and reconditioning businesses (items 4 and 5), the coal depot at Fourways nearby which has just received (in 1976) consent for a commercial vehicle garage (item 6), the lorry depot close by (item 7), the Chelworth industrial estate (item 8), the circus storage site granted consent in 1974 (item 9), a plant and machinery depot (item 10) which has been set up in the past 3 years, a grass drying depot (item 11), a car dealer (item 12), a transport depot (item 15), and 2 transport undertakings near the A419, (items 14 and 15). Cricklade is an expanding town, and residential development is thought to be in prospect along the Chelworth road towards the area of Common Hill (near item 15). He produces a press cutting (Document 5) which indicates that development is being considered in the Cricklade area by the council. This evidence shows that there has been a lot of industrial and commercial development in the area since 1971 which has changed the original predominant agricultural use. He considers the council have treated him very badly in the light of the changed situation, and he feels very bitter and resentful about it, especially with regard to the grant of consent for a garage at the Fourways coal depot.

19. He does not believe his business creates a nuisance. None of the neighbours object. His vehicle traffic does not create a hazard at its present level and there is no problem of visibility at the junction.

20. It is submitted on behalf of the appellant that although the planning policies for the area may not have changed since 1971, the planning circumstances have. The economic climate of the country has become much harder for small businesses and for small farms. For the appellant, whose livelihood is at stake, this notice will decide whether he survives or not. He faces real hardship if it is upheld. Locally, the area is not very attractive and it is now dotted with many non agricultural uses. Whatever their planning status may be, the fact is that they are there. Their impact on the area is to make the haulage business in the appeal site much less alien than it was considered to be in 1972. This is a White Area in which exceptions to the general application of policies ought to be considered on their merits. Genuine hardship should override the precedent issue which arises from policy considerations. The traffic objection is not with the present level of use but with its intensification and this should not be sustained merely because of the problem of enforcing the conditions suggested by the appellant. If these conditions are applied, the effect of the haulage use of the site will be minimal. No one is going to suffer. The 2 interested persons who live nearby and who came to the inquiry did not speak, and there are very few objectors otherwise. As a matter of commonsense in this case, the planning requirements of the area must make reasonable provision for small businesses such as this. The appeal should therefore be allowed and the notice quashed. If it is upheld, a minimum period of 12 months should be allowed to enable the appellant to have a reasonable chance of finding another site.

THE CASE FOR THE LOCAL PLANNING AUTHORITY

The material points are:-

21. In the review of the County Development Plan approved in 1970, the appeal site is included in an area in which existing uses should remain for the most part undisturbed, and only development appropriate to the agricultural need should be allowed.

22. The planning history of the site and the area is as follows. On 23 March 1972 planning permission was refused for a proposed depot for garaging and maintenance of haulage vehicles on the appeal site and adjoining land to the west. The reasons were as follows:-

1. The site is outside the main built-up area of Cricklade and comprised within a 'White Area' on the approved County Development Plan Review where it is the intention of the local planning authority that the existing uses shall for the most part remain undisturbed.
2. The proposal would result in the intrusion of an undesirable, incongruous, commercial and industrial use into a rural area which would be seriously detrimental to the character and visual amenities of the locality.
3. The proposal would result in heavy traffic entering and leaving a fast stretch of Class III county road which would be against the interests of highway safety.

An appeal by the applicants, to the Secretary of State, against the planning authority's decision was dismissed on 5 December 1972 (appeal ref: APP/2025/A/66699), (Document 7). On 22 February 1973 an outline application for the erection of a dwelling house on this site was refused on the grounds that there was insufficient agricultural justification for a dwelling in an area where it is the policy of the planning authority to preserve the existing rural character. The applicants subsequently received permission on 22 November 1973 to erect a calf-rearing unit which now stands on the eastern side of the site. In view of this substantial investment in the agricultural holding a further application for a dwelling was approved in outline of 4 November 1974 and in detail on 15 December 1975. A condition is attached to that permission restricting the occupation of the dwelling to a person wholly or mainly employed in agriculture. A list of other relevant planning decisions in this area is submitted (Document 6) which should be read in conjunction with Plan 'B'.

23. Following a complaint about the non agricultural use of the calf unit the Enforcement Officer of the council visited the site on 8 December 1975 and found 3 large lorries and 3 vans all marked 'Silver Arrow Transport' parked there, and also that part of the calf unit building was in use for the repair and maintenance of motor vehicles connected with the transport business. The appellant explained that owing to the slump in the cattle business he had been forced to turn to transport. In January 1976 it was noted that the local telephone directory included an entry under 'Road Haulage' for 'Silver Arrow Express, Chelworth Lodge, Cricklade 726'.

24. On the merits of the case the site is in an attractive rural area within one mile of the recreational area known as the Cotswold Water Park (inset area Plan B). The site is prominent from the C70 road and also from the B4040. The area is largely agricultural and the introduction of a new commercial use is contrary to the policies for it and detrimental to its rural amenities. The main purpose of the council's policy is to conserve the countryside for agricultural use. If the appeal is allowed it would reverse the appeal decision in 1972 (Document 7). The calf unit building is a very large structure which is visually obtrusive. Vehicles parked around it would make it more so.

25. The traffic objection to the use of this site for a haulage business is that the roads and junctions are inadequate to deal with an appreciable number of large vehicles. The C70 is limited to vehicles of under 3 tons except for access. It is not really wide enough for 2 large vehicles to pass, although it has been widened since 1972. Visibility at the access junction from 15 ft is substandard for this unrestricted rural road, although acceptable from 7 ft which was the standard applied in the 1972 appeal decision. The objection is not so much to the hazards created by the present level of use of the junction and the road as to the potential level arising from the extent of the appeal site.

26. The establishment of a haulage business on the appeal site would create a precedent for further similar commercial uses along the C70 thus causing unsatisfactory traffic conditions on the C70 and at the nearby crossroads, as well as being contrary to the planning policies for the area. These policies have not changed since the 1972 appeal decision on this site, nor have the planning circumstances in the area to any material extent.

27. With reference to the non agricultural uses quoted (Document 4) the gravel works (item 2) are in the Cotswold Water Park which is allocated for mineral working and recreational use in the County Development Plan, the factory (item 3) is associated with them, item 4 is subject to enforcement action in regard to the use for the reconditioning of plant, while item 5 is an established use situation. As for the garage in the coal yard at Fourways (item 6), this is solely for the purposes of the coal yard and is not a separate use. The coal depot has been long established at this point. The use of the area in item 7 is unauthorised and an application for an established use certificate is being considered. The Chelworth industrial estate (item 8) includes miscellaneous uses which have developed in old, disused, air field buildings. Several consents have been granted over the years but this is not a planned estate. The circus storage site (item 9) was granted consent in an old air field structure in 1972. The council know nothing of item 10, but item 11 has been long established. There is a car dealer at site 12 but this is in the town of Cricklade. Nothing is known of items 13 and 14 and item 15 is another coal depot. Most of the planned expansion of Cricklade has already occurred, and further development outside existing limits is not being considered. There was an application for residential development at Common Hill but this was refused. The newspaper article (Document 5) refers to the council's policy plan review at the public consultation stage as part of the country's structure plan. Nothing in it affects the present policy for the appeal site. The non agricultural uses on the 15 sites quoted in no way justify the planning infringement on the appeal site. It should be noted that some are unauthorised and the subject of action by the council, some are old established uses, and some have planning consent.

28. The council is very concerned about the potential capacity of this site bearing in mind that the appellant's business once had 32 vehicles. The present level of the business involves less than half the calf unit building, while the present extent of the calf business is not known. The present transport use clearly involves the part occupation of an agricultural building and it should be noted that the dwelling on the site was given its agricultural justification by the existence of the calf unit. The transport business is harmful to the rural amenities of the area, and if permitted to stay would create a very bad precedent. It would be very difficult to control the expansion of the haulage business. Had there been a planning application, the traffic objection would have been a ground of refusal. Planning permission should not be granted in this case now.

29. As to ground (g), the appellant has been trying to find another site in the open since 1975, and he has had plenty of time to find one. He has known since

1972 that he is unlikely to get planning consent to set up his haulage business on this site. The time has come to put a stop to this unauthorised use, and 2 months is long enough in the light of the past circumstances.

FINDINGS OF FACT

30. I find the following facts:-

1. The appeal site is located on the southern side of the third class county road (C70), 200 yds west of the junction with the B4040 and about 2 miles south-west of the centre of Cricklade. Swindon is about 7 miles to the south-east.
2. The site area is 4.47 acres with a frontage of 200 yds to the road. The frontage hedge has been cut down to about 3 ft, thus fully exposing the site from the road. There are straggly deciduous hedges on the eastern and southern boundaries and a fence separates the site from a field to the west.
3. The surroundings are of farmland dotted with farm houses and farm buildings. The land is fairly boggy in the southern portion of the site and beyond.
4. There is a large new house and the substantial structure of a calf breeding unit on the site. The latter is 150 ft long, 90 ft wide, 14 ft high at the eaves and about 20 ft at the ridge line. There is a concrete hardstanding 41 ft wide on the northern side, a hardened, but unmade, area 33 ft wide on its eastern side, and rather narrower hardened areas to the south and west. Fences separate this hardened area from a pasture to the south and a horse riding ring to the west.
5. The bulk of the calf unit is divided into 2 large rooms. The larger, comprising about 6/10 of the whole, is an indoor riding ring but it shows evidence of having been used by cattle, although there were no cattle there now or in the pasture. The remaining 4/10 is in use as a vehicle repair and servicing workshops. There were 5 vehicles in it and 2 men working there. The room had a bricked up store for spares, a variety of servicing and powered machines, a ramp, fuel tanks and a fork lift truck plus some stores awaiting shipment.
6. Along the full length of the western side of the building there is a partitioned area containing 2 offices fitted with office equipment, 6 loose boxes 3 of which had horses in them, 2 toilets, a large tack room containing a lot of riding gear, and an open area where feed stuffs are stored. Attached to the southern side of the building is a lean-to covering bales of straw and a tractor. A 16 ton truck and 2 x 35 cwt vans, all marked 'Silver Arrow Express', were parked nearby.
7. Access to the calf unit is by a concrete roadway along the eastern side of the site. The dwelling has its own access running inside the roadside hedge. Both accesses exit to the road at a point where the carriageway is 19 ft 3 ins wide. The C70 here is straight in both directions with sight lines measured from 7 ft back from the edge of the carriageway in excess of 300 yds to the west and 200 yds to the east. Measured from 20 ft back, visibility reduces to about 200 yds to the west and 100 yds to the east.
8. The C70 carries a sign at the nearby crossroads with the B4040 limiting its use to vehicles under 3 tons unladen weight except for access. The road is unrestricted. Traffic is controlled at the crossroads by a 'Give Way' sign.

9. The appellant lives in the dwelling. He bought the appeal site and the adjoining 5 $\frac{1}{4}$ acre field in 1970. At that time the site was pasture land and there were no buildings on it. In 1973 he received consent for the calf unit and in 1975 for the dwelling subject to it being occupied by an agricultural user.

10. He is also managing director of A and M Olding Ltd, trading as Silver Arrow Express Freight Services. This business was based in a Swindon industrial estate until October 1975, and thereafter at the appeal site. It now operates a fleet of 14 vehicles, 4 of which are heavy lorries, but some years previously there were 32 vehicles. There is a workforce of 12. Most of the business is with the movement of stores for industrial firms in Swindon.

11. In 1971 he applied for planning permission to move his haulage business to the appeal site plus the adjoining field. This was refused in 1972 and the subsequent appeal was dismissed. He did not reapply for permission when he moved to the appeal site in 1975.

12. If his appeal is allowed, he would be prepared to limit his haulage business to its present size and confine it to the area now occupied, which he shows on Plan D (hatched black). As an alternative to full consent he would accept a temporary permission for 12 months, subject to a review at the end of the period.

13. There are several industrial and commercial uses in the predominantly agricultural area north-west and east of the appeal site on the outskirts of Cricklade, mainly concentrated in disused air field buildings at Chelworth as shown on Plan C. Some are established uses, some unauthorised with which the council are dealing, and some have come there within the last 4 years. The old coal yard at point 6 received consent in 1976 for a garage building. Permission was given in 1972 for a circus to use an air field structure as a store at point 9. A new gravel pit operation with an associated factory at points 2 and 3 has begun in the past 2 or 3 years within an area allocated for such purposes by the County Council.

14. In the review of the County Development Plan, approved in 1970, the appeal site is included in an area in which existing uses should remain for the most part undisturbed, and only development appropriate to the agricultural need should be allowed.

15. The council has recently published a policy review document in the consultation stage of the preparation for the county structure plan. No changes are proposed for the area of the appeal site.

16. No further development outside the existing limits of Cricklade is being considered by the council. An application for residential development at Common Hill (near point 15 on Plan C) was refused.

17. It is accepted on behalf of the highway authority that the present level of use of the site access and the C70 road by the appellant's business does not constitute a serious traffic hazard.

CONCLUSIONS

31. On the planning merits, I am of the opinion that the use of the appeal site for the haulage business is inappropriate and undesirable in this location.

It is clear that the use is contrary to the planning policy for the area. The business is in no way dependent on the needs of agriculture; its main concern is with the movement of stores made by industrial firms in Swindon. Its presence in the countryside detracts from rural amenities, and it uses part of a modern agricultural building and agricultural land which is contrary to long established policies designed to conserve such resources.

32. The appellant's case rests in part on there having been a change in planning circumstances since the refusal of his 1971 application and appeal, sufficient to justify an exception being made to the policy for the area of the appeal site. It is common ground between the parties that the formal policies for the area have not changed. The evidence regarding the non agricultural uses show that for the most part they are either long established or unauthorised and in the latter case that they are the subject of action of one sort or another by the council. Those which have been the subject of consents in the past 4 years appear to fall within the terms of existing policies or are developments considered to be appropriate to the established uses. There is therefore no justification for maintaining that the planning circumstances in the fairly widely dispersed area covered by the quoted cases have changed to any material extent.

33. The appellant relies heavily on the need for a suitable site for his haulage business, and the difficulty he has encountered in finding one in the Swindon area which he can afford. Such personal circumstances do not however warrant the use of an agricultural building and land on the appeal site in a manner so directly contrary to the policies and amenities of the area. The site is not considered viable as an agricultural unit but it is large enough to allow for a very considerable expansion of his haulage business if permission were now granted. The suggested conditions are such that it would be difficult to ensure that the business does not expand in size to what it used to be a few years ago, or in terms of the area occupied by it on the appeal site. Any expansion or intensification of the use of the site would add weight to the planning objections to this inappropriate use in this location. There would undoubtedly be increased use of the road serving the site which is already considered inadequate by the highway authority for heavy vehicles although it is agreed that the present degree of traffic use is acceptable in this respect. Moreover consent would make it difficult to resist similar developments in this area. I consider therefore that need and personal circumstances should not outweigh the objections to this use being established on the appeal site and the appeal on ground (c) cannot be sustained.

34. As to ground (g), it is clear that the appellant cannot have been in any doubt for a considerable period that he would be unlikely to obtain planning permission to use this site for his business as his failure to reapply for planning permission at the end of 1975 indicates. It is also clear that the physical removal of the business from the site within 2 months is not a problem. It may be however that such a period of time would indeed be too short to find some alternative location and that the business would have to close down with a consequent loss of employment by the workforce. An extension of the period to 6 months would therefore be justified to permit adequate time for a decision about the future of the business to be taken. Any longer period would not bring the matter to a head and fail to provide the necessary incentive to make the move.

RECOMMENDATION

35. I recommend that the notice be upheld, subject to extension of the period for compliance to 6 months.

I have the honour to be Sir
Your obedient Servant

D O MORGAN
Inspector

APPEARANCES

FOR THE APPELLANT

Mr P F Copping

- Solicitor, Lemon & Co,
Solicitors, 34 Regent Circus,
Swindon, SN1 1PY.

He called:

Mr A Olding

- The appellant.

FOR THE PLANNING AUTHORITY

Mr J F McDonald

- Committee Secretary, North
Wiltshire District Council.

He called:

Mr L Prebble DipTP

- Planning Assistant, Development
Control, North Wiltshire
District Council.

Mr T Geering

- Assistant Engineer, Planning
Liaison Department, Wiltshire
County Council.

INTERESTED PERSONS

Mr C J Waters

- Nearby farmer at Bournelake
Farm, Chelworth, Cricklade..

Mr L G Street

- Nearby farmer at Chelworth
Farm, Cricklade.

DOCUMENTS

Document 1 - List of persons present at the inquiry.

" 2 - Inquiry notice.

" 3 - Letter dated 11 April 1977 from Cricklade Town Council.

" 4 - Appellant's list of commercial and industrial enterprises in the
vicinity of appeal site (see Plan 'C').

" 5 - Newspaper clipping 24 February 1977.

" 6 - Schedule of relevant planning history (see Plan 'B').

" 7 - Copy of Department of the Environment decision letter
APP/2025/A/66699 of 5 December 1972.

PLANS

Plan A - 1/2500 Plan accompanying the notice.

- " B - 1/2500 Council's plan of the site and surroundings (Numbers relate to Document 6).
- " C - 1/50,000 Appellant's location plan of development in the area (Numbers relate to Document 4).
- " D - 1/2500 Appellant's plan showing area (hatched black) required for haulage business.



Department of the Environment
Becket House Lambeth Palace Road London SE1 7ER

Telephone 01-928 7855 ext 469

MR. SUTTON

Your reference PFC/CAS/18
Council's Ref: AD/DA/154
Our reference APP/5408/C/76/4797

Messrs Lemon & Co
Solicitors
34 Regent Circus
SWINDON
SN1 1PY

Date

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 SECTION 88
LAND AT CHELWORTH LODGE, NEAR CROSSROADS FARM, CHELWORTH, CRICKLADE, WILTS
APPEAL BY MR A OLDING

1. I am directed by the Secretary of State for the Environment to refer to the report of the Inspector, Mr D O Morgan, BA, FCIT, who held a local inquiry into your client's appeal against an enforcement notice served by the North Wiltshire District Council relating to the making of a material change of use of the land for the purpose of a haulage business and the stationing of haulage lorries.
2. The appeal against the enforcement notice was on the grounds set out in section 88(1)(a) and (g) of the Town and Country Planning Act 1971.
3. A copy of the Inspector's report of the inquiry is annexed to this letter. His conclusions are set out in paragraphs 31 to 34 and his recommendation at paragraph 35 of the report. The report has been considered.

REASONS FOR THE DECISION

4. On the planning merits the Inspector concluded:-

"the use of the appeal site for the haulage business is inappropriate and undesirable in this location. It is clear that the use is contrary to the planning policy for the area. The business is in no way dependent on the needs of agriculture; its main concern is with the movement of stores made by industrial firms in Swindon. Its presence in the countryside detracts from rural amenities, and it uses part of a modern agricultural building and agricultural land which is contrary to long established policies designed to conserve such resources.

The appellant's case rests in part on there having been a change in planning circumstances since the refusal of his 1971 application and appeal, sufficient to justify an exception being made to the policy for the area of the appeal site. It is common ground between the parties that the formal policies for the area have not changed. The evidence regarding the non agricultural uses show that for the most part they are either long established or unauthorised and in the latter case that they are the subject of action of one sort or another by the council. Those which have been the subject of consents in the past 4 years appear to fall within the terms of existing policies or are developments considered to be appropriate to the established uses. There is therefore no justification for maintaining that the planning circumstances in the fairly widely dispersed area covered by the quoted cases have changed to any material extent.

The appellant relies heavily on the need for a suitable site for his haulage business, and the difficulty he has encountered in finding one in the Swindon area which he can afford. Such personal circumstances do not however warrant the use of an agricultural building and land on the appeal site in a manner so directly contrary to the policies and amenities of the area. The site is not considered viable as an agricultural unit but it is large enough to allow for a very considerable expansion of his haulage business if permission were now granted. The suggested conditions are such that it would be difficult to ensure that the business does not expand in size to what it used to be a few years ago, or in terms of the area occupied by it on the appeal site. Any expansion or intensification of the use of the site would add weight to the planning objections to this inappropriate use in this location. There would undoubtedly be increased use of the road serving the site which is already considered inadequate by the highway authority for heavy vehicles although it is agreed that the present degree of traffic use is acceptable in this respect. Moreover consent would make it difficult to resist similar developments in this area. I consider therefore that need and personal circumstances should not outweigh the objections to this use being established on the appeal site and the appeal on ground (a) cannot be sustained."

The above conclusions are accepted and for the reasons given by the Inspector it is not proposed to grant planning permission for a haulage business. The appeal therefore fails on ground (a).

5. Although ground (f) was not pleaded, the steps to remedy the breach of planning control are considered too wide and too onerous and will be deleted from the notice. The notice will be varied to require your client to discontinue the use of the land for the purposes of running a haulage business and to remove all vehicles, plant and equipment brought onto the land in connection with the use.

6. On ground (g) it is agreed with the Inspector that six months would be a more reasonable time to allow your client to seek alternative premises for his business and to this extent his appeal succeeds on ground (g).

FORMAL DECISION

7. For the reasons given above the Secretary of State hereby directs that the requirements of the enforcement notice be varied as follows:-

a. by the deletion of the words "two months" and the substitution of the words "six months";

b. by the deletion of the words "(i) To cease all business uses on the land, other than those for which planning permission has been obtained. (ii) To remove all vehicles which are not connected with the agricultural use" and to substitute the words "(i) To discontinue the use of the said land for the purposes of running a haulage business. (ii) To remove all vehicles, plant and equipment brought onto the land in connection with the haulage business".

Subject thereto and for the reasons given above the Secretary of State dismisses the appeal and upholds the enforcement notice as corrected and varied. On the application for planning permission deemed to have been made under Section 88(7) of the 1971 Act he hereby refuses to grant planning permission for the development enforced against.

RIGHT OF APPEAL AGAINST DECISION

8. This letter is issued as the Secretary of State's determination of the appeal. Leaflet 'A', which is enclosed for those concerned, sets out the rights of appeal to the High Court against the decision and the arrangements for inspection of the documents appended to the Inspector's report.

I am Gentlemen
Your obedient Servant

T A BIGNELL
Authorised by the Secretary of State
to sign in that behalf

ENCs

DEPARTMENT OF THE ENVIRONMENT
SECRET HOUSE
LANSBETH PALACE ROAD
LONDON SE1 7ER

Right of Appeal

This letter is issued as the Secretary of State's determination of the appeal but an appeal may be made against the decision to the High Court on a point of law under the provisions of section 245 of the Town and Country Planning Act 1971. Any appeal must be made within 28 days of the date of this letter (unless a successful application is made to the Court for the period to be extended).

Inspection of Documents

Any person notified of the decision given in the accompanying letter may apply to the Secretary of State in writing within six weeks of the notification to him of the decision for an opportunity of inspecting any documents, photographs and plans appended to the report. Such documents etc are listed in an appendix to the report. Any application should be sent to the address from which the decision was issued, quoting the Department's reference number shown on the decision letter and stating the date and time (in normal office hours) when it is proposed to make the inspection. At least three days' notice should be given, if possible.