

**ENFORCEMENT
INFORMATION****REGISTER
SHEET****E/** 223

APPEAL

yes

no

Plan's Ref N/83/01222/ENF

ADDRESSMoon Aircraft Site,
Box Hill (A4 road)
Box**BREACH of CONTROL**Enlargement of a pedestrian access to form
a means of vehicular access on to the
class 1 public highway known as
the A4.

Issuing Authority N.W.D.C.

Date Issued 22-11-82

STOP NOTICES

Date Served

Requiring

Date(s) served

Takes effect 1-1-83

Compliance ¹⁻²⁻⁸³ by ²⁻¹⁻⁸³ ~~and other dates~~Dates Extended by
Secretary of State

Date withdrawn

Appeal allowed 15/1/83



223

Steps required to be taken

- (i) To secure a reduction in the width of the access to a width not exceeding 1 metre within one month from the date on which this notice takes effect
- (ii) To secure within one month of the commencement of the first available planting season the planting of a double row of hawthorn at $\frac{1}{2}$ metre spacings along the whole of that part of the site boundary adjacent to the A4 now forming part of the carriageway of the vehicular access, save for such small gap, not exceeding 1 metre in width as may be required to give pedestrian access. The hawthorn shall thereafter be maintained for a period of not less than 5 years. Any tree or shrub which dies within that period shall be replaced within one month of the first available planting season immediately thereafter.
- (iii) To secure the erection of a 1 metre high wooden fence to the rear of the hawthorn within one calendar month of the planting of the said hawthorn.

Mr. Waller

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

A223

NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

Access to Moon Aircraft Site, Box Hill, Box

WHEREAS:

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of 4 years before the day of issue of this notice on the land or premises (hereinafter referred to as "the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the carrying out of the building, engineering, mining or other operations described in Schedule 2 below, without the grant of planning permission required for that development.
- (3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said Section 87 for the reasons set out in the annex to this notice

NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to remedy the breach within the period specified in respect of each step in that Schedule.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 1st January, 1983.

Issued 22nd November, 1982.

Signed

Solicitor to the Council.

North Wiltshire District Council,
Monkton Park,
Chippenham,
Wiltshire.

	PASSED TO	DATE RECEIVED
	<i>Dennis</i> <i>CW.</i>	24/11
23 NOV 1982		

Schedule 1

Land or premises to which this notice relates

The land situate at Grid Reference ST 838 697 at Box in the County of Wiltshire and known as the "Moon Aircraft Site" which is more particularly delineated on the attached plan and thereon edged red

Schedule 2

Alleged breach of planning control

The enlargement of a pedestrian access to form a means of vehicular access on to the Class 1 public highway known as the A4.

Schedule 3

Steps required to be taken

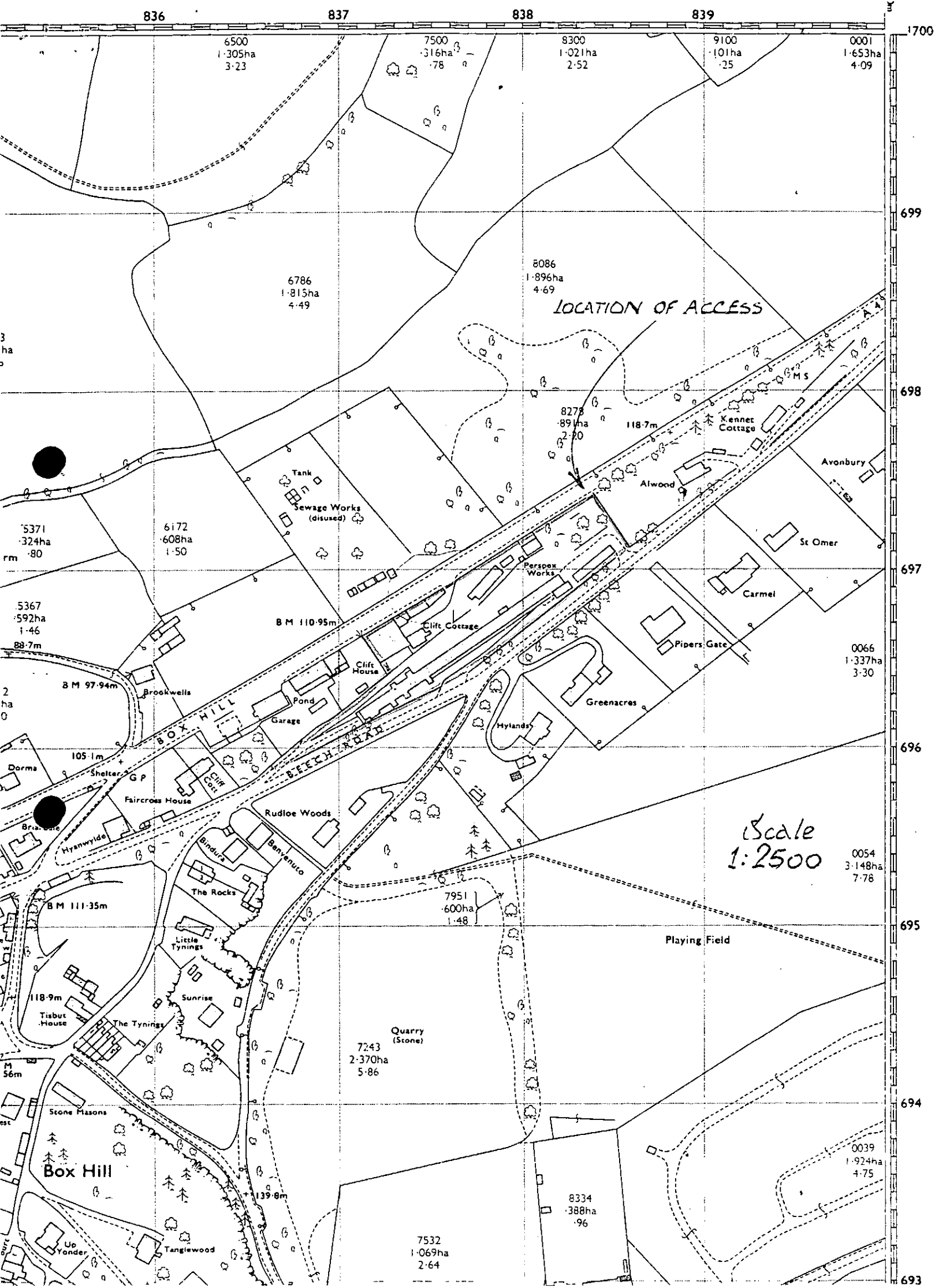
- (i) To secure a reduction in the width of the access to a width not exceeding 1 metre within one month from the date on which this notice takes effect
- (ii) To secure within one month of the commencement of the first available planting season the planting of a double row of hawthorn at $\frac{1}{2}$ metre spacings along the whole of that part of the site boundary adjacent to the A4 now forming part of the carriageway of the vehicular access, save for such small gap, not exceeding 1 metre in width as may be required to give pedestrian access. The hawthorn shall thereafter be maintained for a period of not less than 5 years. Any tree or shrub which dies within that period shall be replaced within one month of the first available planting season immediately thereafter.
- (iii) To secure the erection of a 1 metre high wooden fence to the rear of the hawthorn within one calendar month of the planting of the said hawthorn.

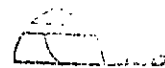
THE ANNEX

NOTE: THIS DOES NOT FORM PART OF THE ENFORCEMENT NOTICE.

STATEMENT OF REASONS

The access is on to a fast stretch of busy Class 1 road and its use would cause additional slowing down and turning movements detrimental to the safe flow of traffic..



		13
PLANNING		
DEPARTMENT		
No		
23 NOV 1982		



Department of the Environment and
Department of Transport

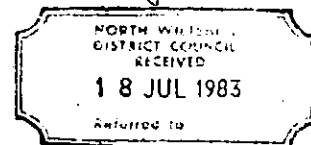
Common Services

Room 141 Tollgate House Houlton Street Bristol BS2 9 DJ

Telex 449321

Direct line 0272-218 914

Switchboard 0272-218811



Council Ref: N/83/0122/ENF AD/DA/508

Messrs Moger Campbell
Solicitors
24 Queen Square
BATH
BA1 2HY

Your reference

SJV/S

Our reference

T/APP/5408/C/83/21/PIPE2

Date

15 JUL 1983

*Enforce with
Quash*

Gentlemen

E 223

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 83 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEAL BY O'KANE PROPERTIES LIMITED
LAND AT THE MOON AIRCRAFT SITE, BOX HILL, BOX

N/83/0122/ENF

1. I refer to the appeal which I have been appointed to determine, against an enforcement notice issued by the North Wiltshire District Council concerning the above mentioned land. I have considered the written representations made by you and by the Council and also the letter from the Council for the Protection of Rural England and I inspected the site on 17 June 1983.

2. a. The date of the notice is 22 November 1982.

b. The breach of planning control alleged in the notice is the enlargement of a pedestrian access to form a means of vehicular access on to the Class I public highway known as the A4.

c. The requirements of the notice are:-

(i) To secure a reduction in the width of the access to a width not exceeding 1 metre within one month from the date on which this notice takes effect.

(ii) To secure within one month of the commencement of the first available planting season the planting of a double row of hawthorn at 1/2 metre spacings along the whole of that part of the site boundary adjacent to the A4 now forming part of the carriageway of the vehicular access, save for such small gap, not exceeding 1 metre in width as may be required to give pedestrian access. The hawthorn shall thereafter be maintained for a period of not less than 5 years. Any tree or shrub which dies within that period shall be replaced within one month of the first available planting season immediately thereafter.

(iii) To secure the erection of a 1 metre high wooden fence to the rear of the hawthorn within one calendar month of the planting of the said hawthorn.

d. The appeal was made on grounds 88(2)(a) and (g), to which grounds (b) and (c) have been added in the representations.

3. The access in question lies at the north-easterly extremity of the frontage of the steeply sloping Moon Aircraft site to the A4 Road at Box Hill. At present at the point in question there is a gap about 27 ft wide, giving access onto the A4 where a trackway, about 10 ft wide, joins it at an acute angle and is ramped up in a south-westerly direction. There is, however, no lowered kerb edge. The trackway leads to a single building at this lower end of the site, identified as the former boiler house, and presently used as a builders' store. There is no footway on this side of the A4, only a narrow verge and the bank to the appeal site. The main lower part of the site and its buildings are served by an access off the A4 further to the south-west on the frontage, and the upper part by access points at either end of its frontage to Beech Lane. However, because of the steepness of the appeal site between Beech Lane and the A4, there is no internal vehicular link between them within the site. Traffic along this straight and unrestricted length of the A4, with a gradient of about 1 to 20, is heavy and fast.

4. On behalf of your clients, and under grounds (b) and (c) pleaded, you deny that there has been any enlargement of a pedestrian access. You claim that the access is a vehicular one of long standing, being on the site of the former quarry tramway giving access to the roadway for the loading of lorries, and is shown on the 1921 Edition of the 1/2500 Ordnance Survey Sheet. This is supported by the letter from Mr G Walker, a former employee who lived on the premises. You maintain that the access was also used by vehicles to reach the lower boiler house building for the delivery of solid fuel, and maintenance of the boilers, when the site was formerly used for industrial purposes, and this use extended up to the early 1970s as is confirmed by the letter from a heating contractor.

5. Some work was undertaken to the access to remove vegetation and soil and to redefine it. However, no work has been undertaken of a material nature which would qualify as development requiring planning permission. When the A4 was resurfaced, probably 8-10 years ago, the new kerb stones were inserted without regard to the existence of the access, and probably because the property was changing hands at about that time. In view of the facts as you see them, the requirements of the Notice in Schedule 3 are excessive, and require the appellants to put part of the site into a very different condition compared with that existing, or before, the minor works referred to were undertaken.

6. On the legal grounds raised, the Council comments only that the 1921 Edition of the 1/2500 Ordnance Survey Sheet shows a gap of some 16 ft in the road frontage, where presumably 2 tramway routes intercept at this point. The County Surveyor, for Wiltshire County Council, confirms by letter that the surfacing of this part of the A4 is probably about 8-10 years old, and no dropped kerbs were provided, and the District Council is not aware of any subsequent requests being made to lower the kerb at the access in question.

CONCLUSIONS

7. My own view on the legal grounds raised is that I am in no position to know the state of the access prior to the recent works being carried out to it. However, from the evidence, and on the reasonable balance of probability, I find that a vehicular access has probably been long established at this point, and that the minor clearance works recently undertaken, and leading to the issue of the Notice, did not amount to the formation of a vehicular access as alleged, or constitute operations involving development, for which planning permission was required.

For these reasons grounds (b) and (c) succeed, and I propose to quash the Enforcement Notice, and consequently ground (a), the planning merits, and ground (g), do not fall to be considered.

8. I have taken account of all the other matters raised but consider, however, that they are outweighed by those considerations that have led me to my decision.

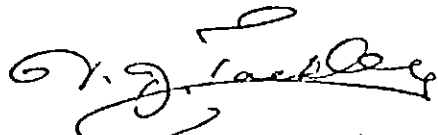
FORMAL DECISION

9. In exercise of the powers transferred to me, and for the reasons given above, I hereby allow the appeal and direct that the Enforcement Notice be quashed.

RIGHT OF APPEAL AGAINST THE DECISION

10. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal to the High Court are enclosed for those concerned.

I am, Gentlemen
Your obedient Servant



D J TACKLEY BSc(Econ) FRTPI
Inspector