

ENFORCEMENT REGISTER INFORMATION SHEET

E/2896.

APPEAL yes no

Plan's Ref 84/0092

ADDRESS

LAND AT MARLOW WAY
COPED HALL
WOODSTON BASSETT.

BREACH of CONTROL

Issuing Authority N.W.D.C.

Date Issued 16.11.83

STOP NOTICES

Date Served

Requiring



279 B

Date(s) served

16.11.83

Takes effect 20.12.83

Compliance by 16.6.84

 Dates Extended by
Secretary of State

Date withdrawn

REQUIREMENTS of ENFORCEMENT

SCHEDULE 3 - Steps required to be taken

- (i) To cease the use of the land for the servicing of lawnmowers.
- (ii) To reinstate the residential use of the land to the satisfaction of the local planning authority.

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

SCHEDULE 2. - Alleged breach of planning control

the failure to comply with a condition subject to which planning permission (reference N81/0645/F) for change of use of domestic workshop/store to Workshop for servicing of lawnmowers and construction of new access was granted on 1st June 1981, to wit

"condition 7

The use hereby permitted shall be discontinued and the site reinstated to its former use to the satisfaction of the local planning authority at or before expiration of a period ending on the 11th May, 1983."

IMPORTANT -

THIS COMMUNICATION AFFECTS
YOUR PROPERTY

District Secretary's Department
D. F. Lewis
Solicitor to the Council



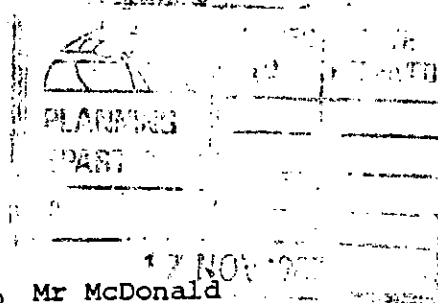
**North Wiltshire
District Council**

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 654188.
Ext. 132

Our ref **E**

279b

Enquiries to Mr McDonald



R. BURTON

279b

Dear Sir/Madam,

16th November, 1983

NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1971 (as amended) **ENFORCEMENT NOTICE**

LAND AT MARLOWE WAY, COPEL HALL, WOOTTON BASSETT, WILTSHIRE

The Council have issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your interest in the land.

Unless an appeal is made to the Secretary of State, as described below, the Notice will take effect on the date shown in the box below and you must then ensure that the required steps for which you may be held responsible are taken within the period or periods specified in the Notice.

If you wish to appeal against the Notice, you should first read carefully the enclosed booklet entitled "Enforcement Notice Appeals-A Guide to Procedure". Then, you or your agent should complete the enclosed appeal form and send it, together with the extra copy of the Enforcement Notice enclosed herewith and the fee specified in the box below to the address shown on the appeal form. Your appeal must be sent to the Department of the Environment BEFORE the Notice takes effect.

There is a requirement on the Council to specify the reasons why the local planning authority consider it expedient to issue the Notice and these reasons are set out in the ANNEX overleaf.

Yours faithfully,

D. F. Lewis
Solicitor

DATE ON WHICH NOTICE TAKES EFFECT and
BEFORE WHICH ANY APPEAL MUST BE
SENT - 20th December, 1983

FEE WHICH MUST ACCOMPANY
APPEAL -
- NIL -

To :

Brian Ronald Roberts,
22 Marlowe Way,
Wootton Bassett,
Swindon, SN4 8LG

and to

North Wiltshire District Council
Monkton Park,
Chippenham
SN15 1ER

ANNEX - (This does not form part of the Enforcement Notice)

Reasons for issue :-

1. The business use is inappropriately located within a predominantly residential area where the noise generated by the activities involved and the associated vehicular movements to and from the property have a detrimental effect upon the amenities of nearby residential properties and the area in general.
2. Whilst the planning authority considered the use acceptable for a temporary period while it achieved viability it was anticipated the use would either relocate to more suitable premises or be discontinued during the time period of the original planning permission (i.e. twelve months ending in May 1983). The continued use of this site beyond that period would result in local residents having to endure loss to their amenities for a period which in the planning authority's opinion would be unacceptable.

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

LAND AT MARLOWE WAY, COPEL HALL, WOOTTON BASSETT, WILTSHIRE

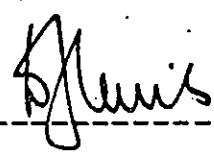
WHEREAS :

- (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 four years before the date of issue of this Notice on the land or premises ("the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the failure to comply with conditions or limitations subject to which planning permission was granted, that permission and the relevant condition being more fully described in Schedule 2 below.
- (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 of six months from the date on which this Notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 20th December, 1983

ISSUED 16th November, 1983

Signed 

Monkton Park,
Chippenham SN15 1ER

SCHEDULE 1 - Land or premises to which this notice relates

Land within residential curtilages together with an access way at Rose Villa, Wootton Bassett, Wiltshire shown edged red on the attached plan.

SCHEDULE 2. - Alleged breach of planning control

The failure to comply with a condition subject to which planning permission (reference N81/0645/F) for change of use of domestic workshop/store to Workshop for servicing of lawnmowers and construction of new access was granted on 1st June 1981, to wit

"condition 7

The use hereby permitted shall be discontinued and the site reinstated to its former use to the satisfaction of the local planning authority at or before expiration of a period ending on the 11th May, 1983."

SCHEDULE 3 - Steps required to be taken

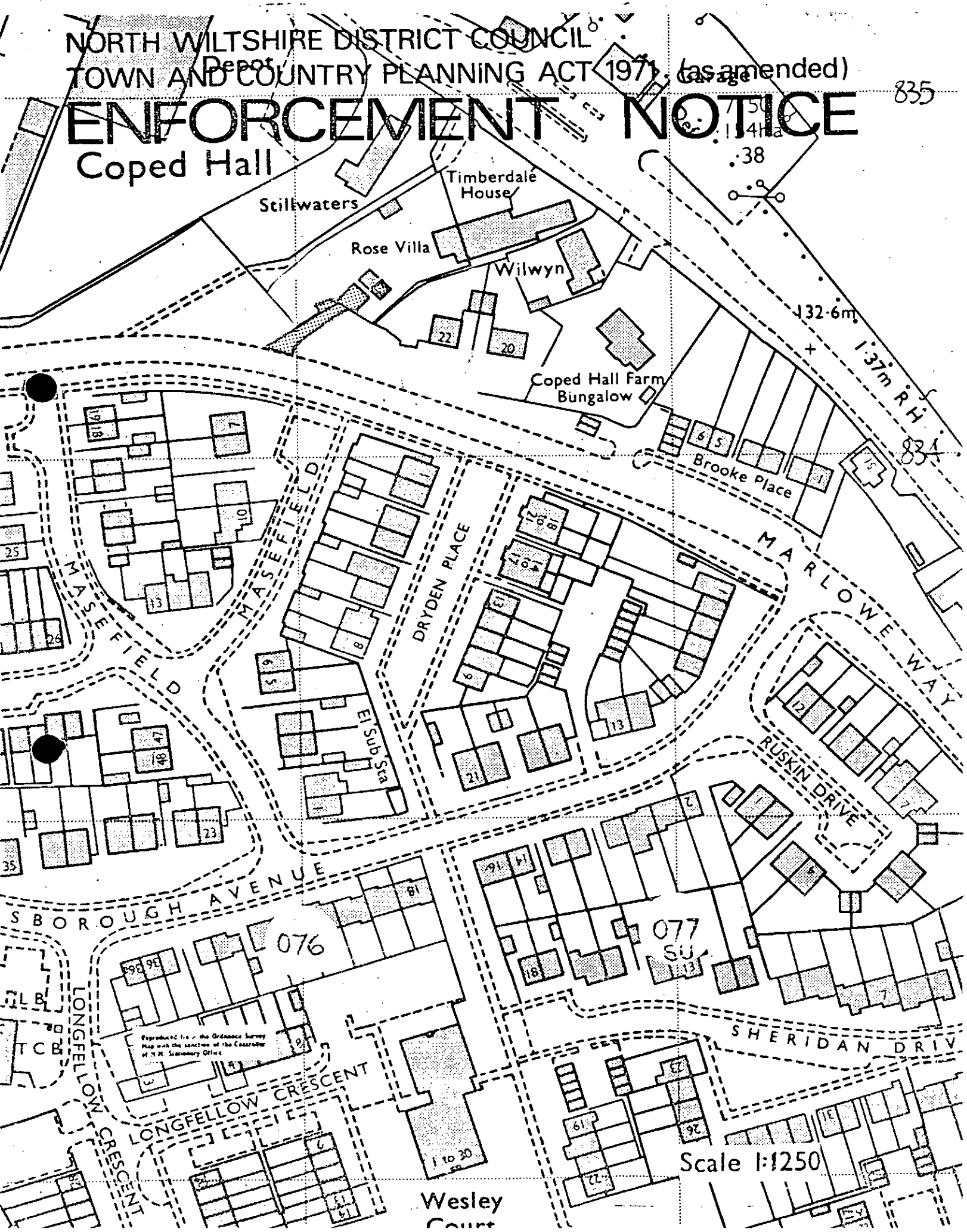
- (i) To cease the use of the land for the servicing of lawnmowers.
- (ii) To reinstate the residential use of the land to the satisfaction of the local planning authority.

E 279 b

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

Coped Hall





Department of the Environment and
Department of Transport

Common Services

Room

1408

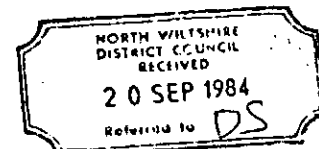
Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 938

Switchboard 0272-218811

GTN 2074



Councillor E Hodges
53 Longleaze
WOOTTON BASSETT
Wiltshire

PASSED TO	DATE RECEIVED
PLANNING DEPARTMENT	12 OCT 1984

Council Ref: McD/AD/610

Your reference

Our reference T/APP/5408/C/83/3831/P6

T/APP/5408/C/83/3878/P6

Date T/APP/J3910/A/84/14091/P6

18 SEP 84

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9

LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981

APPEALS BY MR B R ROBERTS

LAND AND BUILDINGS AT ROSE VILLA AND NO 22 MARLOWE WAY, WOOTTON BASSETT

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals, against 2 enforcement notices issued by the North Wiltshire District Council and against the refusal of planning permission by that council, concerning the above mentioned land and buildings. I held an inquiry into the appeals on 24 and 25 July 1984.

2. NOTICE A

a. The date of the notice is 16 November 1983.

b. The breach of planning control alleged in the notice is the making of a material change in the use of the land from use for residential purposes to use for that purpose and, in addition, the business of receiving for service and repair and the servicing and repair of machinery, principally lawnmowers without the grant of planning permission.

c. The requirements of the notice are i. to cease the use of the land for the receiving for service and repair and the servicing and repair of machinery
ii. to reinstate the residential use of the land to the satisfaction of the local planning authority.

d. The period for compliance with the notice is 6 months.

e. The appeal was made on ground 88(2)(a).

3. NOTICE B

a. The date of the notice is 16 November 1983.

b. The breach of planning control alleged in the notice is failure to comply with condition No 7 subject to which planning permission was granted on 1 June 1981 in that the change of use of domestic workshop/store to workshop for servicing of lawnmowers has not been discontinued.

c. The condition which is alleged not to have been complied with is that:

"the use hereby permitted shall be discontinued and the site reinstated to its former use to the satisfaction of the local planning authority at or before expiration of a period ending on 11 May 1983".

d. The requirements of the notice are to cease the use of the land for the servicing of lawnmowers and to reinstate the residential use of the land to the satisfaction of the local planning authority.

e. The period for compliance with the notice is 6 months.

f. The appeal was made on ground 88(2)(a).

4. The development for which planning permission was refused is renewal of temporary permission No N/810645F for the change of use of domestic workshop/store to workshop for the servicing of lawnmowers until 31 October 1983 to expire on same date as planning permission granted under ref N/81/1880/F on 6 December 1982.

5. The formal decision is at paragraph 32 below. Notice A is defective and is quashed. The appeal against Notice B fails and the notice is upheld subject to a correction and a variation. The Section 36 appeal is dismissed.

6. The appeal site in Notice A comprises the curtilages of 2 dwelling houses - No 22 Marlowe Way, a new house on the frontage of Marlowe Way and Rose Villa, an old semi-detached 2-storey property with access to the A3102 to the north - and a new concrete access road from Marlowe Way serving the lawnmower servicing business located presently in the south-east corner of Rose Villa's garden. The garden of Rose Villa is heavily overgrown and neglected while that of No 22 is neat and well kept. There is a modern brick garage in the latter on the boundary with the adjoining home at No 20 and behind it a timber sectional shed measuring 20 ft by 9 ft used as a domestic store. This shed was against the boundary fence of No 22 and also that of an older property at the rear known as Timberdale which is in use as a guest house. The appeal site in Notice B is half of an old timber and felt shed measuring 12 ft by 10 ft used as a lawnmower and gardening equipment workshops and store together with the concreted access to it and parking area in front. The Section 36 appeal site is the same as that in Notice B with the addition of the space in front of the workshop between it and the boundary hedge to the south. At the site inspection, this space was occupied by a 6 ft by 9 ft timber garden shed containing a quantity of new mowing machines in their packing cases and outside a large number of such machines awaiting repair or scrapped. All the southern and most of the northern boundary of Rose Villa is lined with a 15-20 ft tall thick hedge which completely screens the workshop area.

7. Outside the hedge, positioned in the open verge beside the concrete access to Marlowe Way is a neatly painted sign indicating "Lawn Mower Services" and a telephone number. On the door across the access in the hedge a sign gives the working hours as 0800-1830 hours Mondays-Fridays and 0800-1730 on Saturdays. The workshops building has electricity and 4 power points. The equipment includes a compressor, hand drill, bench grinder and cylinder grinder as well as hand tools, workbench, oil, spare parts etc. About 20 mowing machines and other gardening equipment are there awaiting service or repair.

8. The immediate surroundings include a relatively dense area of new housing across Marlowe Way to the south, a new house at No 20 to the east, another house named Wilwyn to the north-east, Timberdale House in use as a guest house to the

north, and another dwelling called Stillwaters to the north-west. Beyond these houses to the north is the A3102 main road and to the north-west a pocket of old established commercial and industrial premises which include a truck sales and repair garage, an agricultural machine sales and repair depot and a Government storage depot. These premises are located on the corner of an important traffic inter-section of the A420, 3102, 4042 and 4041 roads.

9. Marlowe Way is about 21 ft wide with a footway in the wide verge on its southern side. Its main function is to act as a feeder road to the residential area for which it is used as a bus route.

10. You explain that your client bought No 22 Marlowe Way in 1974 and has lived there since with his wife and 2 boys. He is a skilled toolmaker who has been redundant since 1979. He bought Rose Villa in 1981 from the elderly occupier, Mrs Grant, who remains in it as a sitting tenant. A personal agreement enables her to pay no rent and your client to use half of the old shed in the south-east corner and the area around it (coloured green on Plan D) for his workshops and store. Beyond the boundary hedge to the south, your client has constructed the concrete accessway to Marlowe Way under the terms of the 1981 permission on council land. The licence to use the land for this purpose expired on 11 May 1983 and is currently being renegotiated.

11. Your client began the business of repairing lawnmowers in 1975 as a paying hobby in his spare time in the garage of his house at No 22. Movement to this garage is on the drive shared jointly with No 20. The owner (Mr Letchford) made no complaint about this in the period 1975-79 but when, after your client became redundant in 1979 and had decided to turn his part time occupation into a full time business, Mr Letchford did complain about the activity in the garage and the noise created by it. At this time your client secured the use of the workshop/store in Rose Villa which, he was told, had once been a blacksmith's forge. In 1981 he submitted the planning application for its change of use and for the new access across council land to Marlowe Way which was granted temporary permission until 11 May 1983 and was subject to other conditions. It is accepted that in October 1981 the complaints of Mr Letchford concerning the continued use of the garage at No 22 and non-compliance with the condition on working hours, caused the local planning authority to consider taking enforcement action against your client. The main problem for your client was to negotiate the licence for the new access which did not arrive until 30 October 1981. Following this the access was built by your client, the use of the garage and joint access at No 22 ceased and the enforcement action was not pursued. Although the District Council decided at this time to have discussions with your client on the possibility of relocating the expanding business to a more suitable site, these did not take place. Subsequently an application to site a 10 ft by 15 ft 6 ins timber shed for storage and servicing near the workshops and to extend the working hours was refused. Your client's appeal against this decision was dismissed in relation to the hours of working and allowed in relation to the shed on a temporary basis up to 31 October 1983.

12. This shed was not erected in the workshop area at Rose Villa as it was too costly to do so but a smaller garden shed measuring 6 ft by 9 ft was put there and used for storage. You submit that to this extent the 1982 appeal permission was implemented. Your client's subsequent application to put the 1981 temporary permission for the original workshops on the same time limited basis as the 1982 permission was refused and is the subject of the current appeal. It should be noted that the 20 ft by 9 ft shed at the rear of the garage in No 22, which was bought for £350 in 1982, is not used in the business.

13. Your client runs his business from the workshops area in Rose Villa making use of the new access, and not at all in No 22. It is advertised in the local press and is now viable. The net profit after allowing for costs of £11,998 in the year 1983/84 was £6,041. Machinery costing £1,265 has been bought including a compressor, bench and cylinder grinders, welder, safety tester and special tools. Other expenses amounting to £2,052 including £1,285 for the access have been incurred. Powered machinery is used but the noise is not great and cannot be heard from nearby houses as 2 witnesses have testified. The use is of a very light industrial nature. As such it is acceptable in an area of mixed uses such as this is, given the presence of large commercial and industrial concerns nearby, and a noisy main road. It is doubtful whether his present timber and felt workshops could be satisfactorily insulated but it might be possible with the timber shed now in No 22.

14. The issue of relocation is important in these appeals and the nub of it is the lack of any suitable alternative site in the town at a rent your client can afford. Of the sites mentioned, those at Connor's Yard were too costly and those at Oaklands were unsuitably located although the rent was acceptable. The local planning authority agree in writing that up to December 1983 they were unable to find suitable premises in Wootton Bassett for small businesses like your clients. They still do not have any industrial land in their own ownership suitable for small industrial units, and they have not yet prepared a local plan which could indicate some such allocation. The Structure Plan is the only official plan in being. The Council say that the industrial land allocation for this area has been exceeded but they concede that a review of the Structure Plan in this regard is under way in the light of the need to improve job opportunities. The lack of a local plan which could indicate the areas of local provision of small industrial sites greatly weakens the ability of the District Council to help your client. The high demand for workshop space in Wootton Bassett is highlighted in the undated letter from COSIRA on which you place great reliance. Because of this problem, COSIRA sees good reason for a compromise in relation to the appeal site on the basis recommended in Annex B of Circular 22/80, making clear that they disagree with the 1982 appeal decision's arguments concerning loss of amenity for surrounding residents and with the application of a temporary condition. They consider that your client should stay where he is subject to an agreed scheme to limit noise nuisance and continue to provide a useful local service which has much local support.

15. It is also clear that the local planning authority has failed to follow the advice given in Circular 22/80 by not being helpful to your client in telling him where to relocate his business and by not having a local plan. The letters and petition show that the nature of your client's business is locally acceptable. Conditions should be applied which deal with the objections on grounds of noise. There have been no discussions with the appellant to see if a compromise could be reached; nor has consideration been given to the importance of providing employment. The Circular is a material consideration which has not been taken into account. In a High Court judgement [JA Pye v West Oxfordshire District Council (1984) 47 P&CR 125] it was demonstrated that the Circular had not been taken into account and the appeal was therefore allowed.

16. You submit therefore that the enforcement notices should be quashed, planning permission being granted in the case of Notice A, and the condition discharged in the case of Notice B, the planning permission being subject to the following conditions:

- a. Conditions 2, 3, 4, 5, as applied in the 1981 permission.

b. The area used for the reception, storage, servicing, repair of machinery principally lawnmowers shall be confined to that portion of land shown coloured green on Plan D (excluding the half portion of the original shed which is used by the occupier of Rose Villa).

c. Servicing and repair should be confined to one building which shall be insulated in accordance with a scheme agreed by the local planning authority.

The temporary permission indicated by the Council is not agreed but it would, if imposed, be accepted half-heartedly. In the case of the Section 36 appeal planning permission should be granted on the same lines.

17. The Council's reply is that the 3 appeals are concerned with use of sites on 2 residential curtilages on a residential estate. The local planning authority is entitled to take enforcement action on the grounds that the appellant is conducting a business use in a residential area for that reason alone. It is a breach of planning control. The authority does not have to adduce evidence of noise or nuisance to substantiate such a breach but the fact is that the business use here is as damaging to residential amenity locally as it was found to be in the 1982 appeal decision. The business use is not light industrial as it is claimed but general industrial in character and for that reason should not be permitted on the appeal sites.

18. Although there are substantial industrial land allocations between 1978-91 in the approved Structure Plan, by March 1984 the total developed or granted permission exceeded the allocation in this part of the Swindon sector. It is accepted that some of the permissions have not been implemented so far. As to small industrial sites, there have been opportunities which the appellant might have taken. One such opportunity was at Oaklands Farm, 2 miles away which the appellant said was not suitably located for him, and another at Cannon's Coal Yard, where permission exists for redevelopment to provide small industrial units. It is submitted that there is no shortage of industrial land which would justify consent to continue an industrial use which creates a nuisance in a residential area, and it is maintained that the appellant has had ample opportunity during the period since he was granted temporary permission to find alternative premises. It is conceded that the local planning authority has not discussed the availability of sites with the appellant. It is his responsibility to find accommodation on a privately owned site, not the authority's to do it for him. His problem arises from his reluctance to pay the going price for a suitable site.

19. Regarding Circular 22/80, the appellant relies heavily on the indicated obligations of the local planning authority. The Council are mindful of these and considers it has treated him as helpfully as it could. It granted temporary permission initially to give him the opportunity to become established before moving to more appropriate premises. When his 1982 application for an additional workshop/store building and extension of working hours was refused and taken to appeal, the decision letter indicated that the Council's approach was reasonably within the spirit of the advice in the Circular. The local planning authority believes that it has made every effort, given limited staff resources, to help him as appendix D of the Circular tells them to. COSIRA are there to help small businesses such as this and they have done so. Furthermore the enforcement notices gave the appellant 6 months to comply which extended his time at the appeal site for a full year beyond the expiry of his permission and provided ample time to find alternative accommodation.

20. The Council is firmly of the view that the area of the appeal site should remain residential and that the motor mower repair business should cease on the appeal site. To the south there is a major residential estate of over 1,000 houses served by Marlowe Way. The appeal site is close to the boundary with an old area of industrial uses which are established but separated from it by a substantial hedge which gives a well defined edge to the boundary between residential and industrial areas. The establishment of a general industrial use on the appeal site within the residential area but close to the industrial complex makes it particularly sensitive if permission were granted.

21. The operation of the business in the last few years has given rise to complaints from neighbours mainly on account of noise from the grinding machines, the testing of motor mowers as well as the associated vehicular movements generated by the business. The condition of the present workshops is such that effective sound insulation is not possible although it might be feasible in a new building for which planning permission would be needed. Even if a suitable job could be done, testing of motor mowers would still occur outside the building. The present business therefore is clearly detrimental to the residential amenities of the locality. When the workshop/store was granted temporary permission in 1981, it was thought acceptable to do so whilst the business achieved viability. It was anticipated that the use would be relocated to more suitable premises during the 2 year period. The continued use of the site now would result in an unacceptable further loss of amenities for local residents.

22. It is submitted that planning permission should not be granted and the notices should be upheld. However if the appeals succeed, then permission should be subject to the conditions suggested by the appellant which are acceptable with the addition that the consent should be for a further limited period of 3 years. This would enable the appellant to relocate during that period when the new local plan will be issued and when more industrial land might be available as a result of a review of the Structure Plan. It would also enable the local planning authority to retain control over the use. Any extension beyond 3 years should not be permitted as this will mean that the appellant's business use would have been at the site for more than 7 years, for longer than the neighbours should be expected to endure. In any event it is not appropriate to have a succession of temporary permissions once the initial purpose is achieved.

23. If such a permission were granted with Notice A, the discharge of the condition in Notice B would be superfluous and that notice can be quashed. If however Notice A is found to be defective, and the appeal on Notice B succeeded, then it would be preferable to substitute a new time limited permission on the lines suggested. The same action could be taken in the event of the Section 36 appeal being allowed if it is thought that the underlying permission has been implemented and the appeal is a valid one.

24. The preamble to Notice B is incorrect in saying that there has been a breach "within the period of 4 years" when it should say "after the end of 1963". This can be corrected without prejudice to either party.

25. Two interested persons gave evidence at the inquiry. Mr J Fisher has lived in the adjoining bungalow of Stillwaters for 24 years. His wife is a close relative of Mrs Grant who lives in Rose Villa. He knows that the forge mentioned as having been in the present workshops building was last used by her grandfather in 1925. He did not complain about the appellant's business when it was operating from the brick garage at No 22 because he could not hear the noise. Since the business moved to the timber shed, the noise made by the grinding machine or the testing of motor mowers was very noticeable particularly at weekends or when he was in his garden.

He started to complain about it 2 years ago. He believes he is living in a residential area and he knows that it is not permitted to have a repair business in his house or garden. His son, who is a keen mechanic, wanted to run a car repair business at Stillwaters but on consulting the planners at the District Council, was told that he would not be given permission to do so. He agrees that his wife runs a driving instructing business part time which is advertised as being at his own house. It is a small business and involves her making use of her own car.

Mr C Letchford has lived at No 20 Marlowe Way for 8 years and came there shortly after the appellant arrived in No 22. He was aware that he was repairing lawnmowers in his garage on a part time basis from 1976-1980 but he did not complain to the Council as he did not want to fall out with his neighbour next door. At the beginning it was not a nuisance but as it built up, and particularly when the appellant worked on it full time, it became intolerable. The problem is the noise from the grinding machines and the testing of the motors in the open more especially when it was done outside the hours permitted in the planning consent. He objected to the attempt to extend the hours or to increase the accommodation in the workshops area. He has complained in writing on 8 occasions to the Council detailing breaches of the conditions. He is aware that small premises suitable for the business have been available at various times such as those at the school kitchens and Connor's Yard but the appellant has not made any serious attempt to relocate despite the temporary nature of his permission. To claim that he is unable to afford an economic rent while at the same time purchasing the adjoining property at Rose Villa is contradictory. He bought his property knowing it was close to an industrial area although separated from it by a thick hedge. Since then the area generally has become part of the large residential estate it now is. The appellant has introduced his repair service into it which he believes is quite unacceptable. The appellant has tried to claim that the guest house at "Timberdale" is a noisy commercial use but he has experienced nothing to complain about.

CONCLUSIONS

26. Before I determine the appeals on ground (a) against the notices and on the merits of the Section 36 appeal I have considered the validity of Notice A. Bearing in mind the legal implications of the facts which are not in dispute, I am of the opinion that the allegation of a material change of use is incorrect since the actual breach is continuance of a use after the expiry of a temporary planning permission. Such a defect is fatal to the notice since the correct allegation is failure to comply with the relevant condition. The evidence is clear that the use did not cease when the consent expired and it still continues. Notice A is therefore defective and must be quashed. That being so there is no deemed application arising from this notice for me to consider. As to Notice B, there is an error in line 6 of paragraph 1 of the preamble whereby the breach is said to have occurred "within the period of 4 years before the issue of this Notice" which relates to operations whereas the underlying permission is for a change of use for which the correct wording at this point is "after the end of 1963". Since a correction can be made within the powers granted under Section 88A(2) without injustice to either party, I propose to substitute the wording accordingly.

27. As to the planning merits of the appeal on ground (a) against Notice B and of the Section 36 appeal, I am of the opinion, based on my inspection of the site and its surroundings and from what I have heard at the inquiry and read in the representations, that the principal issue is whether or not the lawn mower repair service is unacceptably harmful to the amenities of this mainly residential neighbourhood.

28. There is a difference of view as to whether the workshop use can be described as light industrial and thus by definition could be carried on within a residential area without detriment to its amenities. It is of course correct to say that a commercial or industrial business cannot normally be conducted within a residential curtilage or in a residential area unless it has planning permission which your client no longer has since both permissions relating to the business have expired. The difference between an industrial building and a light industrial building are defined in the Town and Country Planning (Use Classes) Order 1972. The use of machinery for the repair of any article which creates noise or fumes or have some other undesirable effect is a process of general industry. It is noteworthy that every one of the occupiers of 4 houses adjoining your client's 2 properties has complained about noise, fumes or traffic being generated and so has the occupier of Rose Villa. That neighbours who live further away or persons who live elsewhere find this business acceptable on this site cannot outweigh the interests of the immediate neighbours who all consider that they are adversely affected. It is quite clear to me therefore that this is not a case where permanent permission should be granted.

29. I note that one reason given for issuing the notices and refusing permission is that the original grant of planning was for a temporary period while the appellant's business achieved viability and to enable it to relocate to more suitable premises. Your client's evidence is that he has now achieved viability and it follows that there is no justification on this basis for a further extension of the original permission. You claim however that there is no site available which your client could move to and which he could afford. I recognise that there is strong support for his view particularly from COSIRA and the Town Council. While it is accepted that there is a big demand for small industrial sites and an insufficient supply of these in the town in a situation where the Structure Plan allocation of industrial land has already been exceeded, this does not imply that there is a responsibility or an obligation on the part of the local planning authority to make one available or to find one but only to make every effort to help the owner to obtain a more suitable site. Whether or not the rent of a possible suitable site is too high is a matter for your client to decide, but if he believes it is, that does not provide a justification for him to remain in an inappropriate location to the detriment of his neighbours.

30. It is evident that your client does not lack financial resources for expenditures which are not directly concerned with the lawnmower business, and there does not therefore seem to be any economic necessity for his business to remain in this particular location. Bearing in mind the conclusions reached in the 1982 appeal decision I see no special reason now to dissent from the view then taken of the merits of allowing this business on the site on any basis except to permit it sufficient time to become viable. I have also given careful consideration as to whether permission could be granted subject to the conditions discussed at the inquiry. For the reasons I have given above, there is not sufficient justification to do so either on a temporary or permanent basis. I have decided therefore to dismiss your client's appeals and to uphold Notice B. In doing so I have taken account of the time for compliance with the notice in the light of the evident difficulty in obtaining a suitable alternative site and the personal circumstances of your client. I think it is reasonable to extend the time for compliance with the notice to 12 months and I propose to vary the notice accordingly.

31. I have taken into account all other matters raised at the inquiry and in the representations but these are not such as to alter my decisions.

FORMAL DECISION

32. In exercise of the powers transferred to me and for the reasons given above I hereby direct that:

- a. The appeal against Notice A is allowed and Notice A be quashed.
- b. Notice B be:
 - i. corrected by deleting the words in lines 6 and 7 of paragraph 1 of the preamble "within the period of four years before the date of issue of this Notice" and by substituting the words "after the end of 1963";
 - ii. varied by deleting "6 months" and by substituting "12 months" as the period for compliance.

Subject to this correction and variation I dismiss your client's appeal, uphold the Notice, and refuse to discharge the condition to which it refers.

- c. The Section 36 appeal be dismissed.

RIGHT OF APPEAL AGAINST DECISION

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

I am Sir

Your obedient Servant

D. O. Morgan

D O MORGAN
Inspector

ENC

APPEARANCES

FOR THE APPELLANT

Councillor Eric Hodges

- Agent of the appellant resident,
at 53 Longleaze, Wootton Bassett.

He called:

Mr A Cooper

Mrs G Hird

Mr B R Roberts

- The Appellant.

FOR THE PLANNING AUTHORITY

Mr J F McDonald

- Principal Administrative Officer,
North Wiltshire District Council.

He called:

Mr R Williams MRTPI

- Principal Planning Officer,
(Development Control).

INTERESTED PERSONS

Mr C Letchford

- Owner of adjoining house at
No 20 Marlowe Way, Wootton Bassett.

Mr J Fisher

- Owner of adjoining house at
Stillwaters, Coped Hall,
Wootton Bassett.

DOCUMENTS

Document 1 - List of persons present at the inquiry on 24 and 25 July.

" 2 - Inquiry notice.

" 3 - Copy of application N/810645F and refusal notice.

" 4 - Copy of appeal decision letter APP/5408/A/82/6727 of 6 December 1982.

" 5 - Development Control Committee Briefs.

" 6 - Letters from owners of 3 adjoining properties.

" 7 - Schedule of industrial land developed or constructed in Wootton
Bassett.

IMPORTANT -

THIS COMMUNICATION AFFECTS YOUR PROPERTY

District Secretary's Department
D. F. Lewis
Solicitor to the Council



**North Wiltshire
District Council**

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 654188.
Ext. 132

R. BURTON

2796

PLANNING DEPARTMENT	DATE RECEIVED
17 NOV 1983	

Our ref

E

279b

Enquiries to Mr McDonald

16th November, 1983

Dear Sir/Madam,

NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1971 (as amended) **ENFORCEMENT NOTICE**

LAND AT MARLOWE WAY, COPEDE HALL, WOOTTON BASSETT, WILTSHIRE

The Council have issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your interest in the land.

Unless an appeal is made to the Secretary of State, as described below, the Notice will take effect on the date shown in the box below and you must then ensure that the required steps for which you may be held responsible are taken within the period or periods specified in the Notice.

If you wish to appeal against the Notice, you should first read carefully the enclosed booklet entitled "Enforcement Notice Appeals-A Guide to Procedure". Then, you or your agent should complete the enclosed appeal form and send it, together with the extra copy of the Enforcement Notice enclosed herewith and the fee specified in the box below to the address shown on the appeal form. Your appeal must be sent to the Department of the Environment BEFORE the Notice takes effect.

There is a requirement on the Council to specify the reasons why the local planning authority consider it expedient to issue the Notice and these reasons are set out in the ANNEX overleaf.

Yours faithfully,

D. F. Lewis
Solicitor

DATE ON WHICH NOTICE TAKES EFFECT and
BEFORE WHICH ANY APPEAL MUST BE
SENT - 20th December, 1983

FEE WHICH MUST ACCOMPANY
APPEAL -

- NIL -

To :

Brian Ronald Roberts,
22 Marlowe Way,
Wootton Bassett,
Swindon, SN4 8LG

and to

North Wiltshire District Council
Monkton Park,
Chippenham
SN15 1ER

ANNEX - (This does not form part of the Enforcement Notice)

Reasons for issue :-

1. The business use is inappropriately located within a predominantly residential area where the noise generated by the activities involved and the associated vehicular movements to and from the property have a detrimental effect upon the amenities of nearby residential properties and the area in general.
2. Whilst the planning authority considered the use acceptable for a temporary period while it achieved viability it was anticipated the use would either relocate to more suitable premises or be discontinued during the time period of the original planning permission (i.e. twelve months ending in May 1983). The continued use of this site beyond that period would result in local residents having to endure loss to their amenities for a period which in the planning authority's opinion would be unacceptable.

NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1971 (as amended) ENFORCEMENT NOTICE

LAND AT MARLOWE WAY, COPEL HALL, WOOTTON BASSETT, WILTSHIRE

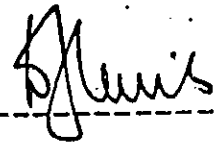
WHEREAS :

- (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 four years before the date of issue of this Notice on the land or premises ("the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the failure to comply with conditions or limitations subject to which planning permission was granted, that permission and the relevant condition being more fully described in Schedule 2 below.
- (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 of six months from the date on which this Notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 20th December, 1983

ISSUED 16th November, 1983

Signed 

Monkton Park,
Chippenham SN15 1ER

/SCHEDULE 1:
(over)

SCHEDULE 1 - Land or premises to which this notice relates

Land within residential curtilages together with an access way at Rose Villa, Wootton Bassett, Wiltshire shown edged red on the attached plan.

SCHEDULE 2. - Alleged breach of planning control

The failure to comply with a condition subject to which planning permission (reference N81/0645/F) for change of use of domestic workshop/store to Workshop for servicing of lawnmowers and construction of new access was granted on 1st June 1981, to wit

"condition 7

The use hereby permitted shall be discontinued and the site reinstated to its former use to the satisfaction of the local planning authority at or before expiration of a period ending on the 11th May, 1983."

SCHEDULE 3 - Steps required to be taken

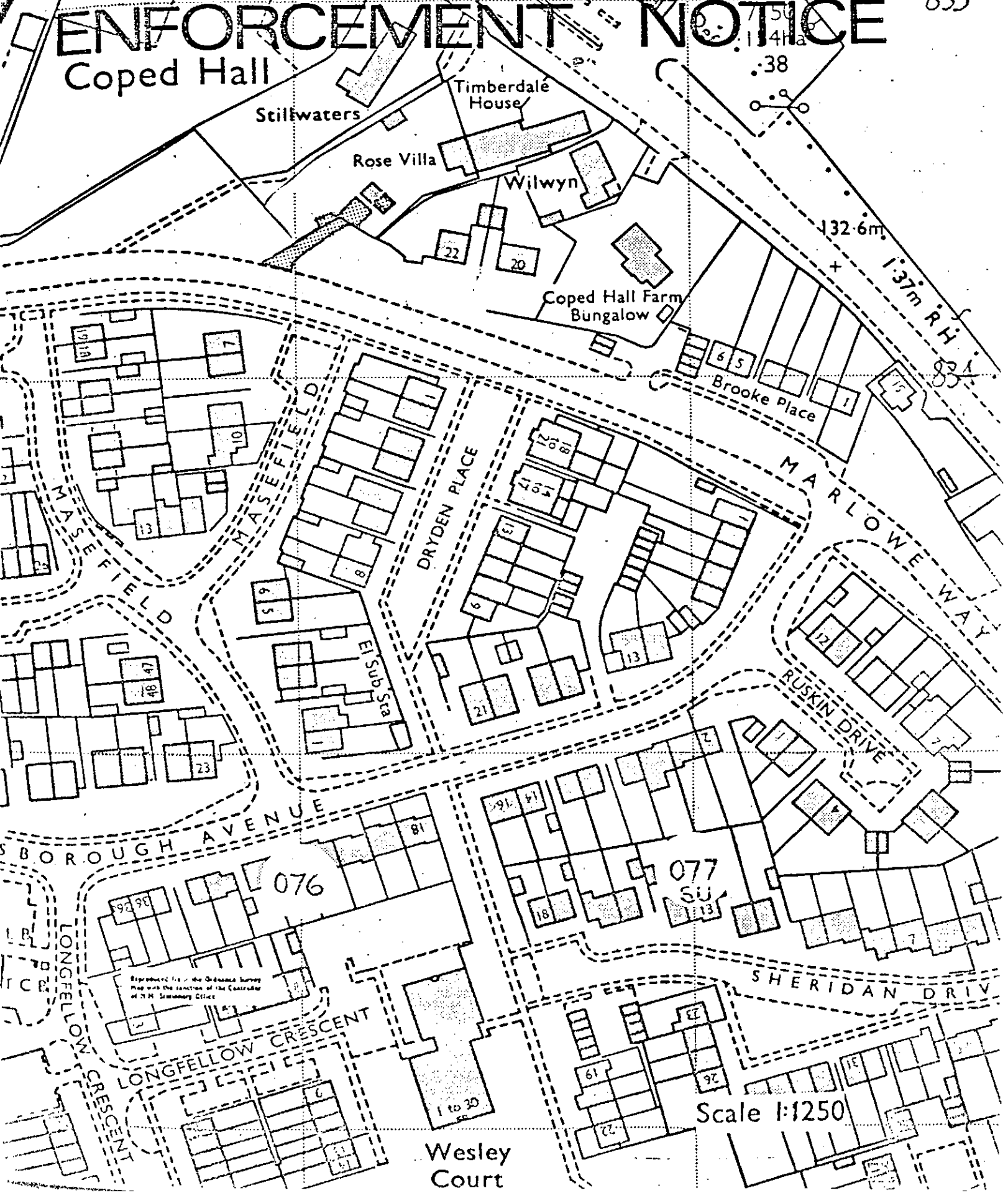
- (i) To cease the use of the land for the servicing of lawnmowers.
- (ii) To reinstate the residential use of the land to the satisfaction of the local planning authority.

E 279 b

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

Coped Hall



835

.38

132.6m

137m R.H.

Brooke Place

MARLOWE WAY

RUSKIN DRIVE

SHERIDAN DRIVE

DRYDEN PLACE

MASEFIELD

SARBOROUGH AVENUE

LONGFELLOW CRESCENT

Wesley Court

Scale 1:1250

Reproduced from the Ordnance Survey Map with the sanction of the Controller of H.M. Stationery Office