

**ENFORCEMENT
INFORMATION****REGISTER
SHEET****E/** 334.

APPEAL

yes

no

Plan's Ref N/63/0822/ENV

ADDRESSBRANDHAR BURGTON
THE CROSSING.
MINSTY**BREACH of CONTROL**

Issuing Authority N.W.D.C.

Date Issued 31. 3. 83.

STOP NOTICES

Date Served

Requiring



334

Date(s) served

31. 3. 83 .

Takes effect 9. 5. 83.

Compliance by 9. 8. 83.

Dates Extended by
Secretary of StateAppeal dismissed
29/11/83

Date withdrawn

REQUIREMENTS of ENFORCEMENT

- (i) To discontinue the use of the land for the purpose of providing residential accommodation.
- (ii) To secure the removal of the mobile home brought on to the land for the purpose of providing residential accommodation.

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

The making of a material change in the use of the land to a use for the stationing of a mobile home for the purpose of providing residential accommodation.

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

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NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

BRANDIERS BUNGALOW, THE CROSSING, MINETY

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 after the end of 1963 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 development by the making of a material change in the use of the land 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 of three months from the date on which this notice takes effect.

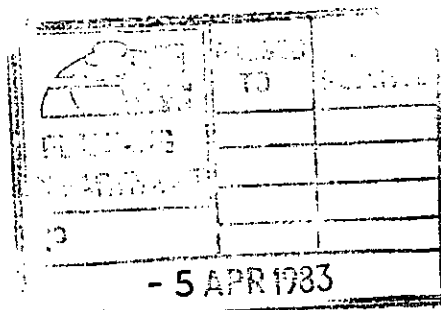
THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88(10) of the Act, on 9th May, 1983.

Issued 31st March, 1983.

Signed


Solicitor to the Council

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



Schedule 1

Land or premises to which this notice relates.

The land situate at and known as Brandiers Bungalow, The Crossing, Minety in the County of Wiltshire which is more particularly delineated on the attached plan and thereon edged red.

Schedule 2

Alleged breach of planning control

The making of a material change in the use of the land to a use for the stationing of a mobile home for the purpose of providing residential accommodation.

Schedule 3

Steps required to be taken

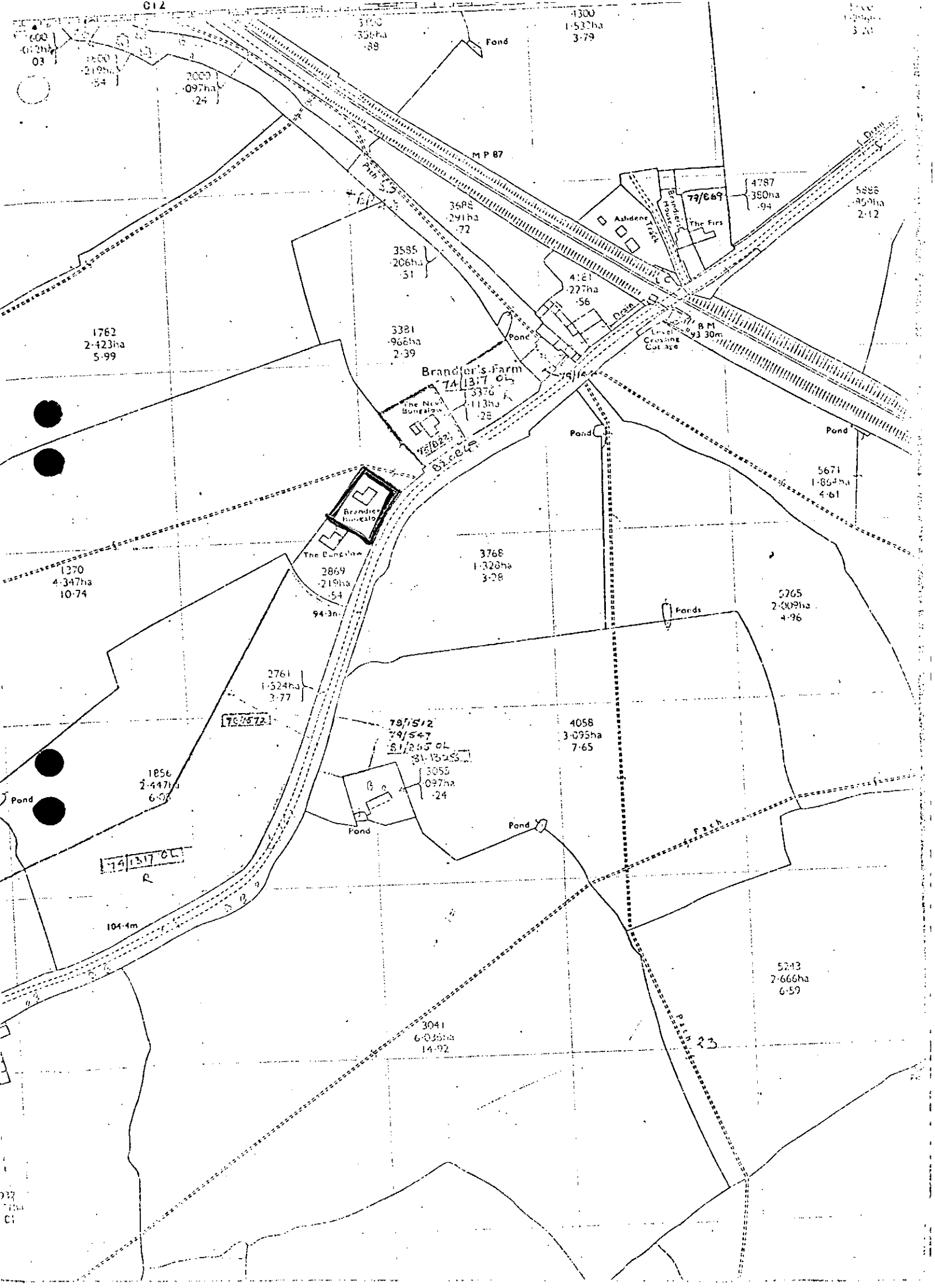
- (i) To discontinue the use of the land for the purpose of providing residential accommodation.
- (ii) To secure the removal of the mobile home brought on to the land for the purpose of providing residential accommodation.

THE ANNEX

(NOTE: THIS DOES NOT FORM PART OF THE ENFORCEMENT NOTICE)

STATEMENT OF REASONS

1. The site lies outside the limits of any established settlement or its reasonable extension in an area which it is the policy of the local planning authority that existing uses shall remain for the most part undisturbed and only development essential to agricultural need shall be approved.
2. The mobile home constitutes sporadic development within open countryside which is detrimental to the character of this area in particular and rural amenity in general and would set a precedent for further similar undesirable development.
3. The development is contrary to policies H1 and H24 of the North East Wiltshire Structure Plan.
4. The mobile home constitutes sporadic development along the C.101 Class III road which if permitted would create a precedent for further similar development which collectively would be detrimental to highway safety.





Department of the Environment and
Department of Transport

Common Services

Room 1411 Tollgate House Houlton Street Bristol BS2 9 DJ

Telex 449321

Direct line 0272-218 914

Switchboard 0272-218811

Council reference AD/DA/547

M R Lundberg Esq
Brandiers Bungalow
The Crossing
MINETY
Wilts

Your reference

Our reference

T/APP/5408/C/83/1168/PE2

Date

29 NOV 1983

2 DEC 1983

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 86 AND SCHEDULE 9
LAND SITUATE AT BRANDIERS BUNGALOW, THE CROSSING, MINETY

1. As you know, I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against an enforcement notice served by the North Wiltshire District Council concerning the above mentioned land. I held an inquiry into the appeal on 1 November 1983.

2. a. The date of the notice is 31 March 1983.

b. The breach of planning control alleged in the notice is the making of a material change in the use of the land to a use for the stationing of a mobile home for the purpose of providing residential accommodation.

c. The requirements of the notice are:-

i. To discontinue the use of the land for the purpose of providing residential accommodation.

ii. To secure the removal of the mobile home brought on to the land for the purpose of providing residential accommodation.

d. The period for compliance with the notice is 3 months.

e. The appeal was made on grounds 88(2)(a), (b) and (c).

SITE AND SURROUNDINGS

3. The appeal site, some 124 ft wide and 90 ft in depth, fronts the western side of a Class III County highway (C101) approximately 1 mile north of Upper Minety: a double unit mobile home (to which has been added a quite substantial timber-framed porch) is situated in the most southerly corner of the site. More centrally situated on the land, but set back from the road, is a dilapidated and apparently derelict bungalow of wood and asbestos cladding, seemingly in use for the storage of sundry domestic items.

YOUR CASE

4. You explained that you were a working man with a wife and 4 children, and that you had purchased the appeal site in 1982: you had not moved into the existing

bungalow because it was delapidated and partially asbestos clad and this, you considered, would have been a health hazard. In October 1982, immediately after purchasing the property, you had stationed a double unit mobile home within the curtilage: you had not applied for planning permission before doing this because, from past experience, you had feared there would be delays and you urgently needed to house your family. You had provided the mobile home with a 3 ins thick concrete hardstanding as a precaution against rising damp, and had positioned it close to the front boundary of the curtilage to facilitate its ultimate removal from the site.

5. On 23 February 1983 you had submitted an outline planning application for the erection of a bungalow to replace the existing derelict dwelling. Conditional outline permission had been granted on 23 May 1983. You were not in a position to be able to ~~draw up~~ ^{draw up} an architect until the time came to draw up the final plans: you had, however, had several contacts with officers of the council to discuss sketch designs prepared by yourself but had until now failed to reach agreement. In your opinion the planning officers had gone out of their way to hinder you in acquiring full planning permission, but it now seemed that you were close to being able to submit an acceptable application for the approval of details. You estimated that you would be able to complete the dwelling within 12 months from the date of starting, and you proposed to commence building as soon as permission was granted.

6. Although there were at the moment 2 dwellings on the appeal site only one of these was in use for residential purposes: you therefore contended that no material change of use of the land was involved. If the council had not delayed matters you would by now have had full planning permission, would have been working on the erection of the new bungalow, and would therefore have been entitled to have a caravan temporarily on the site.

Ground (a)

7. You considered it significant that there were no representations at the inquiry from local people seeking to oppose the stationing of your mobile home. You had no desire permanently to house your family in a caravan: this was purely a temporary measure pending your being able to complete the erection of the replacement bungalow for which you already had an outline planning permission.

THE CASE FOR THE PLANNING AUTHORITY

8. The council referred to the first Quinquennial Review of the County Development Plan approved in 1970, and in particular to paragraph 2 of the County Map Written Statement wherein Minety, a Class B settlement, was defined as a village providing some facilities to the surrounding community and suitable for limited development without adversely affecting the character of the settlement or area; and wherein it was stated that in the open countryside new houses would not normally be permitted unless on the merits of a particular case there was a special need, and that additions to existing ribbon development or to scattered building would not normally be allowed. Attention was also drawn to Policies H17, 18, 19 and 24 of the approved North East Wiltshire Structure Plan. It was maintained that the development was contrary to the policies of both the Development Plan and the Structure Plan since the site lay outside an established settlement in the countryside, and no agricultural justification had been adduced. The outline planning permission granted on 23 May 1983 was based on a liberal interpretation of Policy H20 of the Structure Plan which allowed for the replacement of an existing dwelling in the countryside.

Grounds (b) and (c)

9. An inspection of the appeal site would confirm that the breach of planning control alleged in the enforcement notice had taken place. It was maintained that the provision of an additional and new residential unit of accommodation on the site represented a material change of use of the land constituting development requiring planning permission.

Ground (a)

10. It was maintained that the mobile home constituted sporadic development within the countryside and if permitted would set a precedent for further mobile homes and more traditional dwellings to be similarly sited. Where full detailed planning permission existed for the erection of a dwelling the local planning authority looked sympathetically at an application to site a caravan for 12 months whilst building operations took place. Unless firm intentions to start work on the new dwelling had been shown, eg a detailed planning permission having been obtained and a building regulation application approved, the council would not normally grant temporary planning permission for a caravan. This sympathetic consideration did not normally extend to proposals to site mobile homes of the size and type now occupied by your family, these types of accommodation being generally of a more permanent nature and likely to be required for longer than 12 months: in fact your mobile home had now been positioned for at least 11 months and you still had not obtained the detailed consents necessary before work could commence. If a temporary permission were to be granted the mobile home could well remain on the site beyond this period and result in the need for further enforcement proceedings and a possible further appeal. If it were to be considered that there was a case to extend the period for compliance, then it was submitted that this alternative would be more appropriate than the grant of a planning permission.

CONCLUSIONS

Grounds (b) and (c)

11. On your own evidence the development alleged in the enforcement notice took place in October 1982 and the mobile home has remained on the land, and has been occupied residentially by your family, ever since. In these circumstances the appeal on ground (c) must fail. The outline planning application for the erection of a replacement bungalow was not completed by you until 23 February 1983 and planning permission was not granted until 23 May 1983 (in this connection I note that the application was not received by the council until 29 March 1983). The stationing of a mobile home on the land in October 1982 therefore represented development requiring planning permission and since none was obtained there has been a breach of planning control: the appeal on ground (b) will also fail.

Ground (a)

12. Since the use in question is a caravan site, for which planning permission is required in order to obtain a site licence, I have considered the appeal on ground (a). From my inspection of the site and surroundings, and having considered the representations made, it appears to me that the main issues in this case are the location of the appeal site in relation to approved planning policies for the area; and whether a mobile home in this particular location is an acceptable feature in the mainly rural scene.

13. Your double unit mobile home is particularly prominently sited very close to the public highway and to the front boundary of your curtilage. By reason of its

size and strictly utilitarian design its visual impact on the local scene is severe, and it is noteworthy that there is a network of public footpaths and bridleways fairly close embracing Brandiers Bungalow. To grant planning permission for a mobile home in this location would be completely at variance with approved policies which were carefully formulated to protect the countryside, and in my opinion, because of its incongruous appearance, it detracts unacceptably from the visual amenities of this area. Your appeal on ground (a) therefore fails. However, because the correct fee payable under the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1981 has not been paid, I do not propose to deal with the application deemed to have been made under Section 88B(3) of the 1971 Act, as amended by the Local Government and Planning (Amendment) Act 1981.

14. Although no appeal was made on grounds (g) and (h) I have considered both the requirements of the notice and the period allowed for compliance. There is no dispute that the appeal site comprises a residential curtilage and in consequence I regard the requirement to discontinue the use of the land for the purpose of providing residential accommodation to be too onerous: I propose to vary the notice accordingly. The council tacitly accepted your assurance that the time is near when mutually acceptable detailed plans are likely to be ready for submission. In these circumstances, and taking into account your need to house your family pending the completion of the new bungalow, I consider an extension of the time allowed for compliance to one year to be justified.

15. I have considered all the other matters raised but am of the opinion that they are not sufficient to outweigh the considerations that have led me to my decision.

FORMAL DECISION

16. For the above reasons, and in exercise of the powers transferred to me, I hereby direct that the enforcement notice be varied as follows:-

a. In Schedule 3, delete clauses (i) and (ii) in toto and substitute the clause "To cease the use of the land for the stationing of a mobile home, and secure the removal of the mobile home from the land".

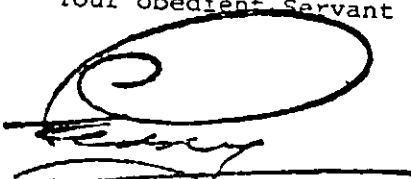
b. In the preamble of the notice, delete the words "three months" and substitute the words "one year" as the period allowed for compliance.

Subject to these variations I hereby dismiss your appeal and uphold the enforcement notice.

RIGHTS OF APPEAL AGAINST THE DECISION

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

I am Sir
Your obedient servant


R. S. PERRY DFC FBIM
Inspector

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NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

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WHEREAS:

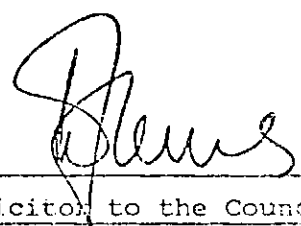
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NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to remedy the breach within the period of three months from the date on which this notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88(10) of the Act, on 9th May, 1983.

Issued 31st March, 1983.

Signed


Solicitor to the Council

North Wiltshire District Council,
Monkton Park,
Chippenham,
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