

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 338

APPEAL yes no

Plan's Ref 83. 0426 d

ADDRESS

BAY TREE HOUSE
CANTORS WAY
MILNTRY

BREACH of CONTROL

Issuing Authority N.W.D.C.

Date Issued 25. 1. 83

STOP NOTICES

Date Served

Requiring



Date(s) served

Takes effect 1. 3. 83

Compliance by 31. 3. 83

Dates Extended by
Secretary of State

Variation of Notice -
appeal dismissed
31. 8. 83

Date withdrawn

Steps required to be taken

- To secure within one month of the first available planting season the removal of the hedge fronting the B.4040 and its replacement by a visibility splay constructed as level highway verge and new boundary of hawthorn hedging along a visibility line from a point 20ft. along the centre of the carriageway of Cantors Way (measured from the carriageway edge of the B.4040) to the eastern end of the frontage in accordance with the revised plans (N/78/1068/D) approved on the 16th October 1978.

The hawthorn hedging shall thereafter be maintained for a period of not less than five years. Any plant comprising the hawthorn hedging which dies

PLANTING COMPLETED WITH (dates)

Alleged breach of planning control

A. The Conditions which have not been complied with

Condition No. 2. "Prior to the commencement of any works on site a landscaping scheme shall be submitted to and approved by the local planning authority. The approved scheme shall be implemented in the first available planting season following completion of the building works and shall be maintained thereafter for a period of not less than five years. Any tree which dies within that period shall be replaced to the satisfaction of the local planning authority and maintained for a further period of five years."

Condition No. 5. "All access to the development shall be from Cantors Way and a 1.8 metres wide footway shall be provided along the site frontage to Cantors Way."

Condition No. 6. "The hedge fronting the B.4040 be removed and replaced by a new boundary along a visibility line from a point 20 feet along the centre of the carriageway of Cantors Way (measured from the carriageway edge of the B.4040) to the eastern end of the frontage this visibility splay to be constructed as level highway verge."

B. Alleged Breach of Conditions

Condition No. 2. set out above has not been complied with in that the tree and shrub planting shown on the revised plans (N/78/1068/D) approved on 16th October 1978, has not been carried out.

Condition No. 5 set out above has not been complied with in that the access on to the B.4040 Station Road has remained in existence.

Condition No. 6. set out above has not been complied with in that the hedge fronting the B.4040 Station Road has not been removed and replaced by a new boundary hedge.

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

PL
25 JAN 1983
NO
25 JAN 1983

Bay Tree House, Cantors Way, 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 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 failure to comply with the conditions set out in Schedule 2A below relating to the development of the land subject to which planning permission was granted on 12th June, 1978 in the respect set out in Schedule 2B 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 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 March, 1983.

Issued 25th January, 1983.

Signed



Solicitor to the Council.

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

Schedule 1

Land or premises to which this notice relates

The land situate at and known as Bay Tree House, Cantors Way, Minety in the County of Wiltshire which is more particularly delineated on the plan attached hereto and thereon edged red.

Schedule 2

Alleged breach of planning control

A. The Conditions which have not been complied with

Condition No. 2. "Prior to the commencement of any works on site a landscaping scheme shall be submitted to and approved by the local planning authority. The approved scheme shall be implemented in the first available planting season following completion of the building works and shall be maintained thereafter for a period of not less than five years. Any tree which dies within that period shall be replaced to the satisfaction of the local planning authority and maintained for a further period of five years."

Condition No. 5. "All access to the development shall be from Cantors Way and a 1.8 metres wide footway shall be provided along the site frontage to Cantors Way."

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B. Alleged Breach of Conditions

Condition No. 2. set out above has not been complied with in that the tree and shrub planting shown on the revised plans (N/78/1068/D) approved on 16th October 1978 has not been carried out.

Condition No. 5 set out above has not been complied with in that the access on to the B.4040 Station Road has remained in existence.

Condition No. 6. set out above has not been complied with in that the hedge fronting the B.4040 Station Road has not been removed and replaced by a new boundary hedge.

Schedule 3

Steps required to be taken

1. To secure within one month of the first available planting season the removal of the hedge fronting the B.4040 and its replacement by a visibility splay constructed as level highway verge and new boundary of hawthorn hedging along a visibility line from a point 20ft. along the centre of the carriageway of Cantors Way (measured from the carriageway edge of the B.4040) to the eastern end of the frontage in accordance with the revised plans (N/78/1068/D) approved on the 16th October 1978.

The hawthorn hedging shall thereafter be maintained for a period of not less than five years. Any plant comprising the hawthorn hedging which dies

within that period shall be replaced within one month of the first available planting season following the said plants demise and thereafter maintained for a further period of five years.

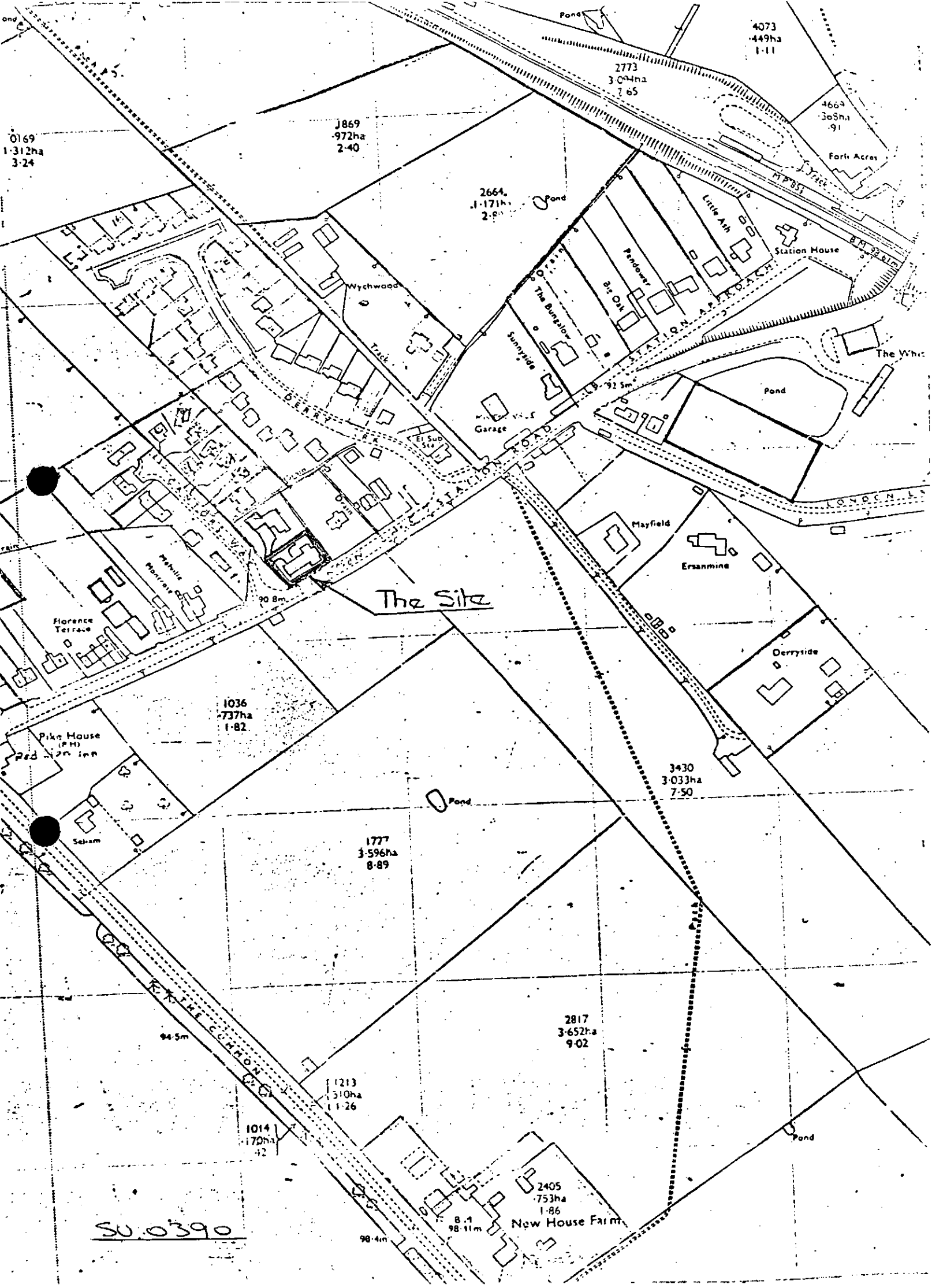
2. To secure within one month of the commencement of the first available planting season the closure of the access fronting the B.4040 Station Road by means of the planting of a row of hawthorn hedging across the carriageway of the access in accordance with the revised plans (N/78/1068/D) approved on 16th October, 1978.

THE ANNEX

NOTE - This does not form part of the Enforcement Notice

STATEMENT OF REASONS

1. Direct access from the development on to Station Road is detrimental to Highway Safety.
2. Without adequate visibility being provided in accordance with the requirements of Condition 6 imposed on planning permission ref: N/78/0265/OL and as shown on the detailed plans approved under ref: N/78/1068/D the development is detrimental to highway safety at the junction of Cantors Way with Station Road.
3. Without the planting of the hawthorn hedge as detailed on the plans approved under Ref: N/78/1068/D and required by Conditions 2 and 6 imposed on permission ref: N/78/0265/OL the development is detrimental to the visual amenities of the area.





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

Mrs. J. Darch

N/83/0426/ENF

Council Ref: AD/DA/529 MCD/KJP

Your reference

Our reference

T/AFP/5408/C/83/540/PE2

Date

31 AUG 1983

Mr R J Head
Baytree House
Station Road
MINET
Wiltshire

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 82 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
LAND AT BAYTREE HOUSE, CANTORS WAY, MINET

E 338

1. I refer to your appeal, which I have been appointed to determine, against an enforcement notice issued on 25 January 1983 by North Wiltshire District Council concerning the above land. I have considered all the representations made by you and by the Council, and also those made by interested persons. I inspected the site on 8 August 1983.

2. a. The breach of planning control alleged is failure to comply with the conditions set out in Schedule 2A of the notice, relating to the development of the land subject to which planning permission was granted on 12 June 1978 in outline for 2 dwellings.

b. The conditions alleged not to have been complied with are:

2. Prior to the commencement of any works on site a landscaping scheme shall be submitted to and approved by the local planning authority. The approved scheme shall be implemented in the first available planting season following completion of the building works and shall be maintained thereafter for a period not less than 5 years. Any tree which dies within that period shall be replaced to the satisfaction of the local planning authority and maintained for a further period of 5 years.

5. All access to the development shall be provided from Cantors Way and a 1.8 m wide footway shall be provided along the site frontage to Cantors Way.

6. The hedge fronting the B4040 be removed and replaced by a new boundary along a visibility line from a point 20 ft along the centre of the carriageway of Cantors Way (measured from the carriageway edge of the B4040) to the eastern end of the frontage this visibility splay to be constructed as level highway verge.

c. The requirements are:

1. To secure within one month of the first available planting season the removal of the hedge fronting the B4040 and its replacement by a

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1983
C. B. Cross*

visibility splay constructed as level highway verge and new boundary of hawthorn hedging along a visibility line from a point 20 ft along the centre of the carriageway of Cantors Way (measured from the carriageway edge of the B4040) to the eastern end of the frontage in accordance with the revised plans (N/78/1068/D) approved on 16 October 1978.

The hawthorn hedging shall thereafter be maintained for a period of not less than 5 years. Any plant comprising the hawthorn hedging which dies within that period shall be replaced within one month of the first available planting season following the said plant's demise and thereafter maintained for a further period of 5 years.

2. To secure within one month of the commencement of the first available planting season the closure of the access fronting the B4040 Station Road by means of the planting of hawthorn hedging across the carriageway of the access in accordance with the revised plans (N/78/1068/D) approved on 16 October 1978.

d. The appeal was made on grounds 88(2)(a) and (g).

3. In summary, the notice is being upheld but the requirements are being varied.

4. Dealing first with the access question, it seems to me implicit in Condition 5 that it should not be possible to gain access to the property by any means other than from Cantors Way. This can only be ensured if no other access to the site is left open. At present there is a tarred access not far short of 12 ft wide leading from Station Road, in addition to the authorised access in Cantors Way. This leaves drivers free to enter or leave by the Station Road access in addition to that in Cantors Way, and is thus contrary to the condition. Although you say that the Station Road access has existed for some 90 years, and has been constantly used for the last 20, it seems to me entirely reasonable to take the opportunity of the redevelopment of the site to improve the safety of the access. Although traffic on the road may have decreased, it appeared to me to be quite a well used road, upon which it would be sensible to keep to a minimum the number of side entrances and exits. The condition might perhaps have been drafted to say explicitly that the Station Road access should be stopped up, but in fact the approved landscaping scheme, which is drawing RJH: 100778:7A, approved on 16 October 1978 (referred to in the requirements of the notice as N/78/1068/D, which in fact is the reference number of the approval of details) clearly shows that the hawthorn hedge to be planted runs across the access. I can see no reason to discharge this condition.

5. Turning to the removal and replacement of the hedge fronting Station Road (B4040) required by Condition 6, you have now removed and replanted about 58 ft of it, starting from a point about 37 ft from the eastern end of the frontage. The frontage now comprises about 37 ft of the eastern part of the original hedge, trimmed to a height of 3 ft, and a section of hawthorn hedge replanted on the approved sight line, 55 ft long, broken only by the access already referred to. Although the eastern part of the hedge has not been removed and replanted, it appeared to me to follow approximately the alignment of the replanted section. It is also very close to the east end of the visibility splay, and there would be no significant gain from uprooting it. For these reasons I do not consider it necessary to remove the remaining part of the original hedge. Condition 6 will in my opinion be satisfied by the planting you have already completed on the Station Road frontage, and the hedge to be planted across the access to be closed. The condition should not be discharged, but the requirement of the notice can be reduced to cover only the removal and replanting of the easternmost 55 ft of the hedge. Your appeal on ground (a) that the conditions should be discharged fails.

6. Although ground (h) has not been raised I am satisfied that the period for compliance is reasonable. I have also considered all the other matters raised in the written representations, but can see no reason to reach any other decision.

FORMAL DECISION

7. In exercise of the powers transferred to me and for the reasons given above I hereby direct that the requirements of the notice be varied by inserting in Schedule 3, paragraph 1 line 2 after "B4040" the words "for a distance of 55 ft measured from the western end of the Station Road frontage". Subject to this variation I dismiss your appeal, uphold the notice and refuse to discharge the conditions to which it relates.

RIGHT OF APPEAL

8. 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



E D CREW CB DSO DFC MA FRAeS
Inspector

ENC

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

E 338

PLANNING
267
25 JAN 1983

NORTH WILTSHIRE DISTRICT COUNCILTOWN AND COUNTRY PLANNING ACT 1971 (as amended)ENFORCEMENT NOTICEBay Tree House, Cantors Way, 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 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 failure to comply with the conditions set out in Schedule 2A below relating to the development of the land subject to which planning permission was granted on 12th June, 1978 in the respect set out in Schedule 2B 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 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 March, 1983.

Issued 25th January, 1983.

Signed



Solicitor to the Council.

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

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Schedule 3

Steps required to be taken

FOR A DISTANCE OF 55' MEASURED FROM THE WESTERN END OF THE STATION ROAD FRONTAGE:

1. To secure within one month of the first available planting season the removal of the hedge fronting the B.4040 and its replacement by a visibility splay constructed as level highway verge and new boundary of hawthorn hedging along a visibility line from a point 20ft. along the centre of the carriageway of Cantors Way (measured from the carriageway edge of the B.4040) to the eastern end of the frontage in accordance with the revised plans (N/78/1068/D) approved on the 16th October 1978.

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