ENFORCEMENT REGISTER INFORMATION SHEET

N/84/1415/ENF

E/3944.

APPEAL yes no
Plan'g Ref

ADDRESS

THE TARTURS
SHERSTON
MALMESSURY.

BREACH of CONTROL

Issuing Authority

N.W.D.e.

STOP NOTICES

Date Served

Requiring



Date Issued 13.6.84

Date(s) served

13, 6.84.

Takes effect 31.7.84

Compliance by 30.4.86

Dates Extended by Secretary of State

Date withdrawn

appeal dismissed

REQUIREMENTS of ENFORCEMENT

SCHEDULE 3 - Steps required to be taken

To implement in relation to the land the subject of this Notice the landscaping scheme approved by the local planning authority on 8th March, 19.78 in the planting season following this Notice becoming effective. (For reference, a copy of the said landscaping scheme is appended hereto and local planning authority officers are available to give advice on the details of its implementation).

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 N/77/0592/F) for the extension and revision to residential development was granted on 4th July, 1977, to wit :-

"Condition 2. Notwithstanding the landscaping shown on the plan hereby approved 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 scheme shall be implemented in the building works and shall 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."

The works the subject of the planning permission were completed in 1981 and a landscaping scheme in terms of the said condition had been approved on 8th March 1978. No landscaping has been carried out on the land the subject of this notice.

S COMMUNICATION AFFECTS R PROPERTY

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

Dear Sir/Madam,



394

Enquiries to

Mr. McDonald

K. BURTON

North Wiltshire District Council

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

13th June, 1984

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

The Tarters, Sherston, Malmesbury, 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 on the appeal form. Your appeal must be received by 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,

Solicitor

FEE WHICH MUST ACCOMPANY

APPEAL -

NIL

DATE ON WHICH NOTICE TAKES EFFECT and BEFORE WHICH ANY APPEAL MUST BE RECEIVED - 31st July, 1984

To:

Graham W. Steedman, "Hollybrook", Watts Lane, Hullavington, Chippenham, SN14 6EA

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

REASONS FOR ISSUE:-

The residential estate of which the land forms part is within the Cotswold Area of Outstanding Natural Beauty and on the edge of the Sherston Conservation Area. The omission of landscaping on and the uncared for state of the land in contrast to the remainder of the residential estate is, given its prominence within the estate and in the wider locality, detrimental to amenity.

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

The Tarters, Sherston, Malmesbury, 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 NINE MONTHS from the date on which this Notice takes effect.

	13th June, 1984
ISSUED	
10000	

Signed

Monkton Park, Chippenham SN15 IER

SCHEDULE 1 - Land or premises to which this notice relates

Land forming part of residential development at The Tarters, Sherston, Malmesbury, Wiltshire shown stipple edged on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

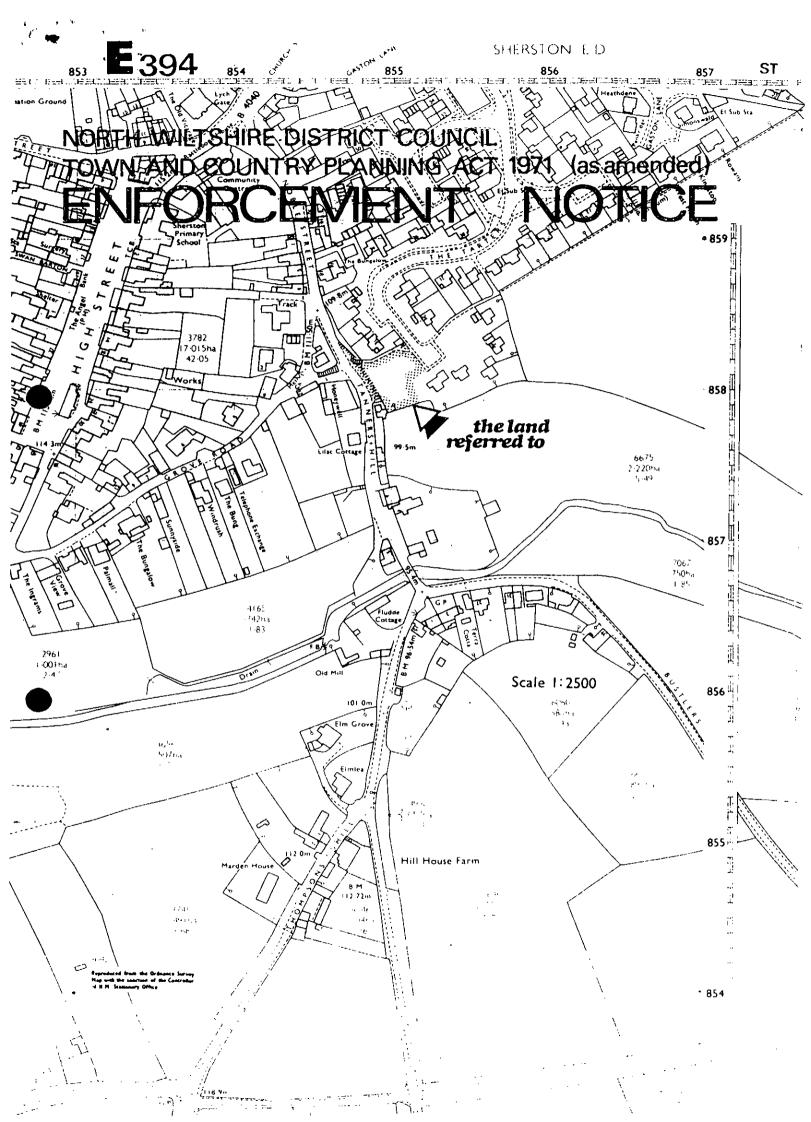
The failure to comply with a condition subject to which planning permission (reference N/77/0592/F) for the extension and revision to residential development was granted on 4th July, 1977, to wit :-

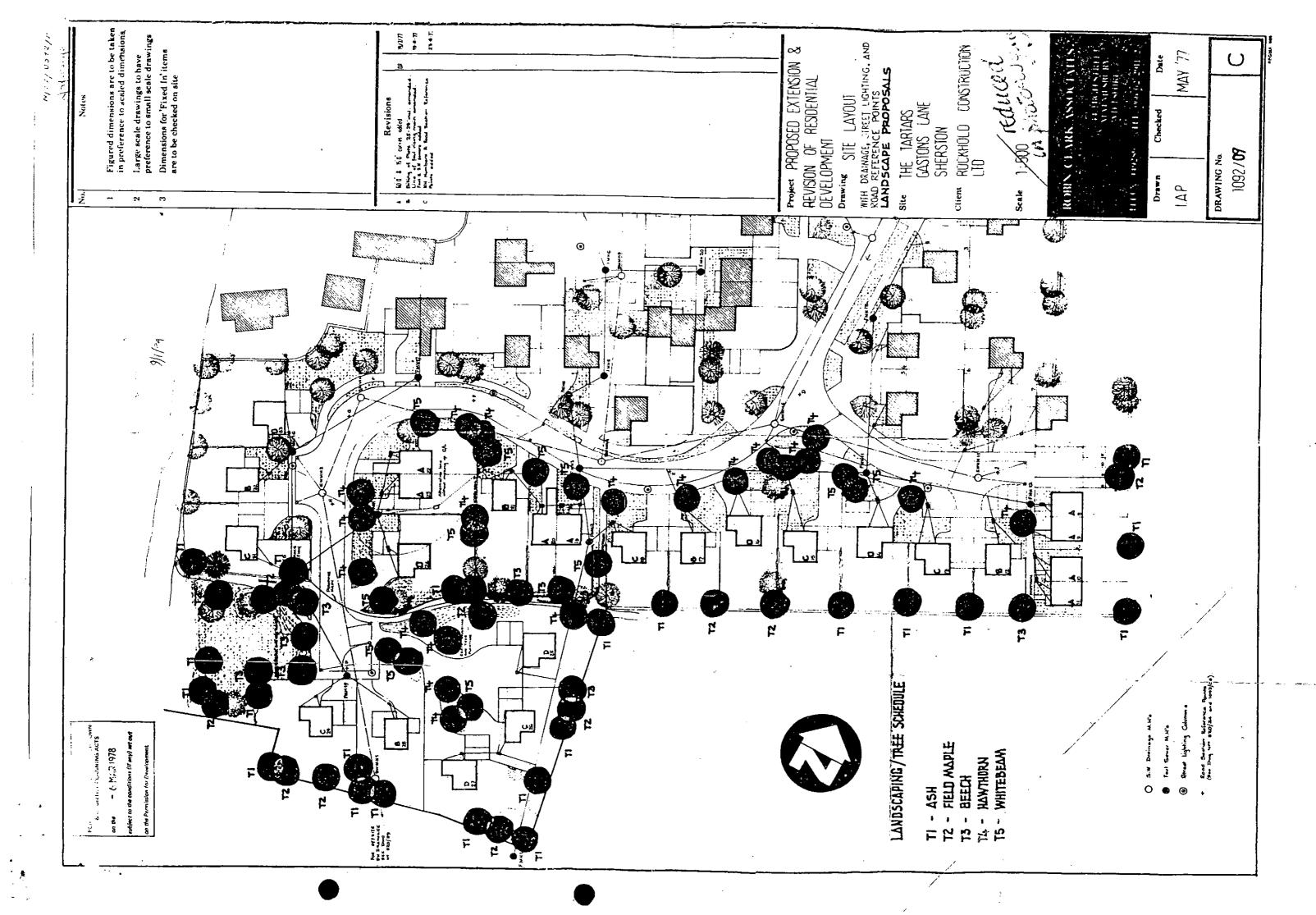
"Condition 2. Notwithstanding the landscaping shown on the plan hereby approved a landscaping scheme shall be submitted to and approved by the local planning authority. The approved scheme shall be implemented in the first available planting season following completion of the building works and shall 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."

The works the subject of the planning permission were completed in 1981 and a landscaping scheme in terms of the said condition had been approved on 8th March 1978. No landscaping has been carried out on the land the subject of this notice.

SCHEDULE 3 - Steps required to be taken

To implement in relation to the land the subject of this Notice the landscaping scheme approved by the local planning authority on 8th March, 1978 in the planting season following this Notice becoming effective. (For reference, a copy of the said landscaping scheme is appended hereto and local planning authority officers are available to give advice on the details of its implementation).







Department of the Environment and Department of Transport

Common Services

Room 1408 Tollgate House Houlton Street Bristol BS2 9DJ

Direct Line 0272-218 93
Switchboard 0272-218811
GTN 2074

938

Edward Drewe Esq

Green Gables
Lowden Hill
CHIPPENHAM
Wiltshire

25APR 1935

Our reterence T/APP/J3910/C/84/2229/P6

Date

Council Reference AD/DA/642

Your reference

17 APR 85

Sir

SN15 2BX

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9 LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981 APPEAL BY MR G STEEDMAN.
LAND AT THE TARTERS, SHERSTON

- 1. 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 issued by the North Wiltshire District Council, concerning the above mentioned land. I held an inquiry into the appeal and I inspected the site on 12 February 1985.
- 2. a. The date of the notice is 13 June 1984.
 - b. The breach of planning control alleged in the notice is failure to comply with condition No 2 subject to which planning permission was granted on 4 July 1977 in that the works the subject of the planning permission were completed in 1981 and a landscaping scheme in terms of the said condition had been approved on 8 March 1978. No landscaping has been carried out on the land the subject of this notice, at The Tarters, Sherston.
 - c. The condition which is alleged not to have been complied with, is: notwith-standing the landscaping shown on the plan hereby approved, a landscaping scheme shall be submitted to and approved by the local planning authority. The approximately 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 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 5 years.
 - d. The requirements of the notice are to implement in relation to the land the subject of this notice the landscaping scheme approved by the local planni authority on 8 March 1978 in the planting season following this notice becomin effective.
 - e. The period for compliance with the notice is 9 months.
 - f. The appeal was made on ground 88(2)(a).
 - 3. You submitted that your client did not own the whole of the site delineated or the plan attached to the notice. The steeply sloping section along Tanners Hill is in another ownership as the plan filed with Land Registry shows (Plan B).

- 4. You further submitted that Mr Steedman bought his site from the developers of The Tarters estate after they had failed on appeal to obtain permission to develop it. He bought the site for use as an amenity space on which his children could play: the site is visible from the house in which he lived at the time, No 25. He did not know of the condition which is the subject of this appeal, but he planted 10 trees along the east boundary of the site and erected a chain link fence. He also cleared rubbish from the land but it was admitted that some builders' rubble and materials were still there.
- 5. The 10 trees are poplars of unknown species and are now well established at about 12 ft high. In addition to these trees there are a group of trees planted by the Parish Council on land to the south of the site. Together these 2 groups of trees are a sufficient alternative to the original scheme which the council wish now to enforce.
- 6. For personal reasons your client moved away from The Tarters and applied for planning permission to develop the appeal site. This was refused and a subsequent appeal dismissed. He is convinced that planning permission will eventually be granted for residential development and will submit objections to the Draft District Plan which does now show the site allocated for residential purposes. Until such permission is obtained he will keep the site as tidy as possible but cannot prevent trespassing or vandalism. It is impossible to clearly understand what has to be done to comply with the condition as the plans are vague and illegible and do not contain full details of the original intentions. (Plan C).
- 7. The local planning authority say that the site is in the Cotswolds Area of Outstanding Natural Beauty and is just outside the Sherston Conservation Area. It is adjacent to open farmland to the south and because of its elevated position is clearly visible and prominent from the south and west. The approved County Structure Plan policies B3 and C10 seek to secure a high standard of design for development proposals, related to the form and setting of each settlement (taking into account the value of existing and new landscape features); and also seek the protection and enhancement of the quality of the landscape throughout the Plan area by, inter alia, undertaking tree planting schemes in the countryside and towns and villages.
- 8. The appeal site, say the council, forms an integral part of the design layout for The Tarters estate and the creation of the planted landscape feature was taken into consideration in the grant of planning permission. It would serve to minimise the contrast between the new estate dwellings and the traditional cottages on Tanners Hill. The District Council's Development Control Code of Practice which applies in the AONB, and the County's Conservation Area policy, both emphasise the importance of integrating new development into the existing character of the area. Furthermore, 2 appeal decisions (T/APP/5408/A/81/691/G9 and T/APP/5408/A/83/3771/PH2) supported the council's policy in relation to the appeal site.
- 9. The council does not accept that the trees planted on the site are an acceptable alternative to the approved landscaping scheme. The black poplars are an unsuitable type for this location and will be too large when fully grown. Furthermore the approved design showed earth moulding and grass planting and neither of these have been done. However the council is looking for the site to be tidied up and landscaped in a way appropriate to its location. They would be willing to consider an alternative scheme if the appellant wished, but so far no serious attempt to negotiate has been made.
- 10. The council will continue to resist, even after the adoption of the Local Plan should that eventually show the site as being for residential use, any proposal to develop the site with dwellings.

- 11. In my consideration as to whether the condition alleged in the notice not to have been complied with ought to be discharged, I have taken the main issue to be whether or not the ommission of the landscaping on, and the uncared for state of the land are detrimental to the amenity of the estate and the wider locality.
- 12. I visited the site at a time when there was a thick covering of snow, but was able quite clearly to observe that sizeable pieces of building materials were on the ground, and that the site was covered with weeds (tall enough to show above the snow), indicating in my view that the site is uncared for and has not been landscaped in a comprehensive way despite the 10 trees planted along the east side by the appellant. These 10 trees coincide approximately with 4 of the 9 tree positions shown on the approved Landscape Proposals drawing 1092/09C, that is the 4 positions around the perimeter of the narrow part of the site nearest the estate road and the houses.
- The principle of the landscaping scheme on this estate as approved in 1978, as partially implemented by the developers, and as augmented by the individual owners and the Parish Council, is to soften the raw edges of the new building works in this sensitive position on high ground in an AONB. Within limits the council do not seem concerned whether the precise type of tree is provided, or whether it is exactly located, compared with the Plan. The approved layout places 5 of the trees, ash and field maple, in the more prominent western part of the site, and contrasts these with the beech nearer the houses. None of these trees have been planted. In my opinion neither the intention of the layout (to use this site to give a heavy landscaped edge to the estate) nor the detail have been fulfilled, and this is contrary to the aims of council policy quoted above. Given the very prominent position of the site in relation to both the Area of Outstanding Natural Beauty and the Conservation Area, I consider that it is most desirable that some concentrated large scale landscaping is provided in this place. In the absence of an approved suitable alternative layout, the approved layout which is the subject of the condition attached to the original planning permission should be implemented.
- 14. In relation to the estate itself, which as far as I could judge contained plentiful, well cared for domestic scale landscaping, the lack of complimentary tree and grass planting on this site is a serious loss of amenity. Whatever the problems of maintenance Mr Steedman may have encountered since he moved away, I do not consider that there is any justification for failing firstly to landscape his land in accordance with the approval scheme and secondly to maintain that landscaping until it becomes established.
- 15. Finally I accept your submission that the plan attached to the notice is incorrect in that it shows a portion of land included in the site referred to in the notice which is not in your client's ownership and over which he has no control. In upholding the notice I will correct the plan to correspond with Mr Steedman's ownership, and this can be some without prejudice to either party.
- 16. I have considered all the other representations made, including those made by support of the Council by Captain Coughlan, Mr Hanham, Mrs Johnston and Mr Rutter, but do not find that they outweigh those factors that led me to my decision.

FOR-AL DECISION

17. For the above reasons and in exercise of the powers transferred to me I direct that the enforcement notice be corrected at Schedule 1 by the deletion of the words "stipple edged" and then replacement with the words "hatched black"; and by substituting the plan attached to this letter for that attached to the notice. Subject thereto I hereby dismiss the appeal uphold the motice and refuse to discharge the condition referred to therein.

RIGHT OF APPEAL AGAINST DECISION

18. This letter is issued as the determination of the appeal 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

P W ROBINSON Architect Inspector

ENC

THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

Dear Sir/Madam,



394

Enquiries to

Mr. McDonald

R. BURTON

lorth Wiltshire District Council

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

13th June, 1984

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

The Tarters, Sherston, Malmesbury, 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 on the appeal form. Your appeal must be received by 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.

DATE ON WHICH NOTICE TAKES EFFECT and BEFORE WHICH ANY APPEAL MUST BE RECEIVED -

31st July, 1984

Yours

hfully,

FEE WHICH MUST ACCOMPANY APPEAL

NIL

To:

Graham W. Steedman, "Hollybrook", Watts Lane, Hullavington, Chippenham, SN14 6EA

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

REASONS FOR ISSUE: -

The residential estate of which the land forms part is within the Cotswold Area of Outstanding Natural Beauty and on the edge of the Sherston Conservation Area. The omission of landscaping on and the uncared for state of the land in contrast to the remainder of the residential estate is, given its prominence within the estate and in the wider locality, detrimental to amenity.



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

The Tarters, Sherston, Malmesbury, Wiltshire

WHEREAS:

- It appears to the North Wiltshire District Council (1)("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.
- The breach of planning control which appears to have (2) 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.
- The Council consider it expedient, having regard to (3) 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 NINE 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 31st July, 1984

ISSUED 13th June, 1984

Monkton Park, Chippenham SN15 1ER

SCHEDULE 1 - Land or premises to which this notice relates

Land forming part of residential development at The Tarters, Sherston, Malmesbury, Wiltshire shown stipple edged on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The failure to comply with a condition subject to which planning permission (reference N/77/0592/F) for the extension and revision to residential development was granted on 4th July, 1977, to wit :-

"Condition 2. Notwithstanding the landscaping shown on the plan hereby approved 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."

The works the subject of the planning permission were completed in 1981 and a landscaping scheme in terms of the said condition had been approved on 8th March 1978. No landscaping has been carried out on the land the subject of this notice.

SCHEDULE 3 - Steps required to be taken

To implement in relation to the land the subject of this Notice the landscaping scheme approved by the local planning authority on 8th March, 1978 in the planting season following this Notice becoming effective. (For reference, a copy of the said landscaping scheme is appended hereto and local planning authority officers are available to give advice on the details of its implementation).

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