

**ENFORCEMENT
INFORMATION****REGISTER
SHEET**

E/ 486		
APPEAL	yes	no
Plan's Ref N/88/0433/JNF		

ADDRESS

LAND AT BARGAINS AND
LONDON RD,
Box.
CORSHAM WILTS

BREACH of CONTROL

THE MAKING OF A MATERIAL CHANGE
IN THE USE OF THE LAND FROM A
RESIDENTIAL USE TO A COMMERCIAL
USE, AND, IN ADDITION, A COMMERCIAL
USE FOR THE MAKING, STORAGE, REPAIR
AND MAINTENANCE OF GOODS VEHICLES

Issuing Authority NWDC

Date Issued 8.1.88

STOP NOTICES

Date Served

Requiring



Date(s) served

8.1.88

Takes effect 15.2.88

Compliance by 15.8.88

Dates Extended by
Secretary of State

See D.O.E. Notice
attached

Date withdrawn

REQUIREMENTS of ENFORCEMENT

- 1 TO CEASE THE USE OF THE LAND FOR
COMMERCIAL PURPOSES
- 2 TO CEASE THE USE OF THE LAND FOR THE
PARKING, STORAGE, REPAIR AND MAINTENANCE
OF GOODS VEHICLES
- 3 TO REMOVE THE SAID GOODS VEHICLES FROM THE LAND

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

IMPORTANT -

**THIS COMMUNICATION AFFECTS
YOUR PROPERTY**

District Secretary's Department,
G. C. Betteridge, LL.B., (Solicitor),
District Secretary



**North Wiltshire
District Council**

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 654188.
Ext. 130

Our ref **E E 486**

Enquiries to Mr McDonald

Your ref

8th January, 1988

Dear Sir/Madam,

NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

Land at Bargates and London Road, Box, Corsham, Wilts.

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 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,

Assistant District Secretary

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED **15 February 1988**

To:

George A Purser
Myrtle Grove
London Road
Box
Corsham
Wilts.
SN14 9LY

E486

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

Reasons for issue:-

The commercial use in a predominantly residential neighbourhood, involving storage and occasional repair or maintenance of large commercial vehicles and their passage along a narrow access drive is unacceptable by reason of its adverse effect on the amenity of neighbouring properties, particularly those in close proximity to the access drive.

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

Land at Bargates and London Road, Box, Corsham, Wilts.

WHEREAS :

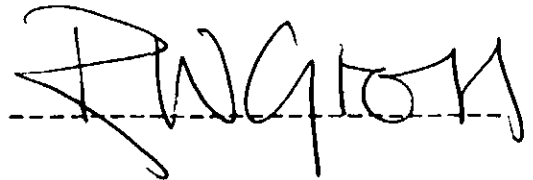
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises ("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 the 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 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 15 February 1988

ISSUED 8 January, 1988

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this notice relates

Land comprising the residential curtilage Myrtle Grove, London Road, Box, Corsham, Wiltshire together with rear access thereto from Bargates shown stippled on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The making of a material change in the use of the land from a residential use to a continuing residential use and, in addition, a commercial use for the parking storage repair and maintenance of goods vehicles.

SCHEDULE 3 - Steps required to be taken

- (i) To cease the use of the land for commercial purposes.
- (ii) To cease the use of the land for the parking, storage, repair and maintenance of goods vehicles.
- (iii) To remove the said goods vehicles from the land.

E 486

WILTSHIRE

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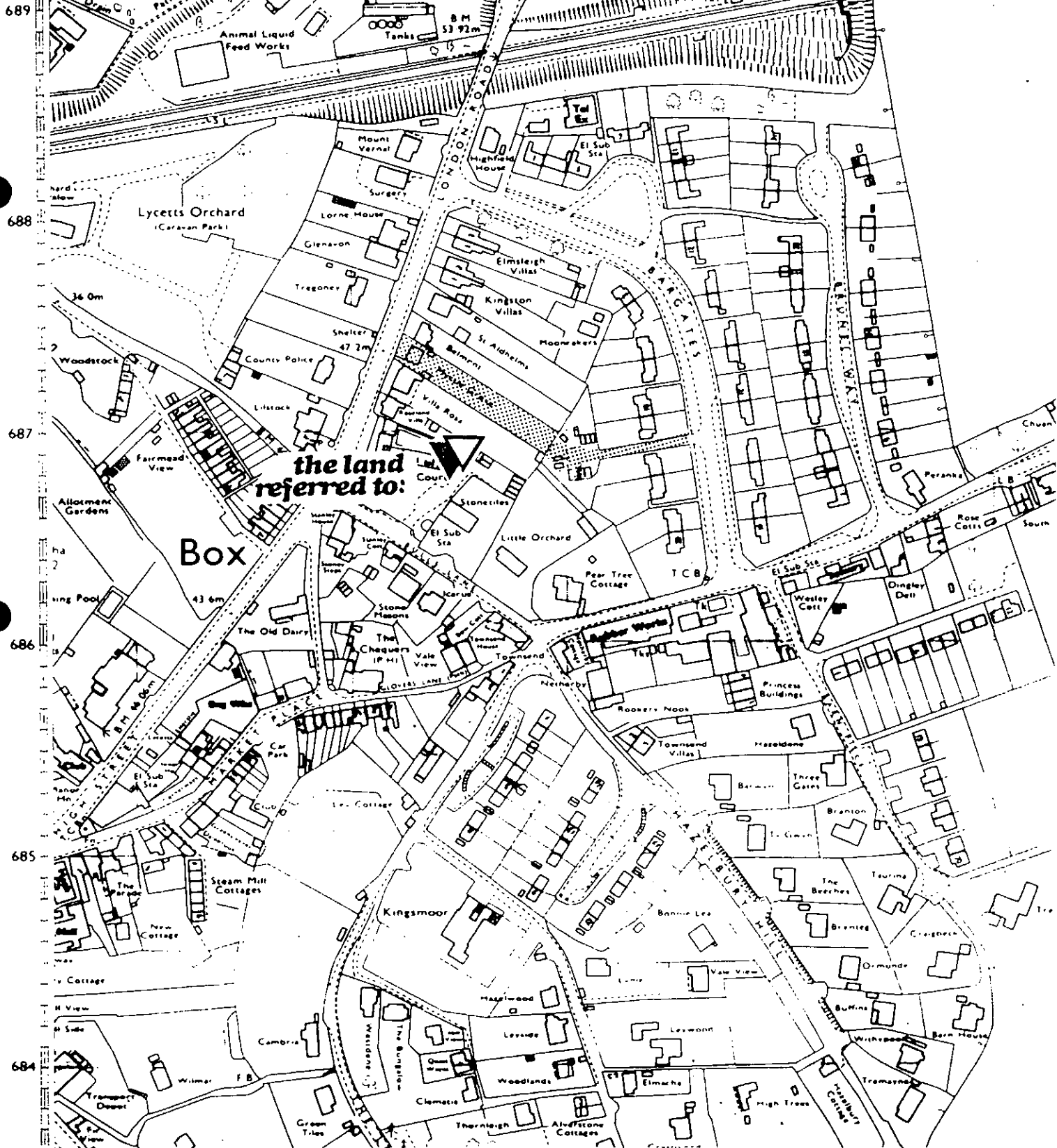
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NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1971 (as amended) ENFORCEMENT NOTICE

ST 8068-8168





Planning Inspectorate
Department of the Environment

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ
Telex 449321

Direct Line 0272-23882x 218915
Switchboard 0272-218811
GTN 2074

Mrs. J. David

D A Haigh MRTPI MBIM
Highlands
Beechen Cliff Road
BATH
Avon
BA2 4QS

PLANNING DEPT.
26 AUG 1988
DATE REC.

Council Reference:

N.88.0433.ENE/E.486 AD/486

Your Reference :

878/15

Our Reference:

T/APP/C/88/J3910/000001/P6

Date

24 AUG 88

Sir

Parking = appeal upheld.
Repairs Maintenance = Appeal dismissed

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981

APPEAL BY MR G A PURSER

LAND AND BUILDINGS BETWEEN BARGATES AND LONDON ROAD, BOX, CORSHAM, WILTSHIRE

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 and buildings. I have considered the written representations made by you, by the North Wiltshire District and Box Parish Councils and by interested persons. I inspected the site on 19 July 1988.

2. a. The date of the notice is 8 January 1988.

b. The breach of planning control alleged in the notice is the making of a material change in the use of the land from a residential use to a continuing residential use and, in addition, a commercial use for the parking, storage, repair and maintenance of goods vehicles.

c. The requirements of the notice are:

(i) to cease the use of the land for commercial purposes;

(ii) to cease the use of the land for the parking, storage, repair and maintenance of goods vehicles;

(iii) to remove the said goods vehicles from the land.

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

e. The appeal was made on the grounds set out in Section 88(2) (a) and (c) of the 1971 Act as amended.

3. Your client occupies a detached house known as Myrtle Grove fronting London Road but with vehicular access to the rear via a gap between Nos 12 and 14 Bargates. This means of access also serves a garage court through which your client passes in order to reach a large and still uncompleted garage given planning permission in the 1960s subject to conditions, including one that the garage shall not be used for business or industrial purposes. I understand that one lorry is parked wholly within this building and another outside but nearby. Both are used in connection with your clients road repair



and maintenance business which is operated from his depot at the former Box Station.

4. On ground (c) you argue that most of the activities alleged in the notice do not take place. The only correct part of it is the parking of 2 lorries overnight. You say that no commercial use is made of the premises, that no repairs or maintenance to commercial vehicles are now carried out, though there have been occasions in the past when this has happened, and that in effect the Council is seeking to enforce against a discontinued use.
5. That 2 lorries park on the site overnight and at weekends is admitted and acknowledged to be a use requiring planning permission. The storage element of the alleged breach seems to include also the vintage vehicles that have appeared on the premises from time to time, the restoration of which is one of your client's hobbies. To my mind whether such a use requires express planning permission is a matter of fact and degree, but I understand that some larger vehicles have been observed on the site in the past. Your client admits also that repairs and maintenance to lorries has taken place on the site, albeit many years ago. I am told that such servicing is now restricted to private cars belonging to the family, but the premises appear to remain capable of such use. I accept that better facilities are available at the depot at Box Station and that your client intends to restrict work on commercial vehicles to this yard, but nonetheless, because of the historical evidence contained in the representations, I am satisfied that the breach of planning control alleged in the enforcement notice has taken place. Therefore your client's appeal on ground (c) fails.
6. On ground (a) you contend that the parking of 2 lorries on the site has taken place throughout the last 20 years. The vintage vehicles appear to have caused misunderstandings in the past but these were resolved by the mid-1970s when the garage was given planning permission also. I understand that the lorries concerned leave the site at about 0700 hrs on working days and do not return until about 1700 hrs, giving a total of 4 goods vehicle movements only per day. The lorries concerned are 2-axle, 6-wheeled 6 tonne tippers of the type suitable for road repair work, and there are sound practical reasons for your client and his wife to wish to park them at the appeal site. Because of their small size they cause little disturbance as confirmed by the occupier of No 14 Bargates adjoining the access way, and they are not conspicuous because one is parked fully under cover and the other between 2 buildings.
7. Many of the allegations of the relatively few objectors are incorrect; in many cases it would have been impossible for them to identify the source of the disturbances referred to from their own properties. The appellant is willing to accept conditions on a planning permission resulting from the deemed application, including the construction of a footway along the access, if the land is made available and a permission personal to himself and his wife.
8. The Council, however, argues that quite apart from the activities that the appellant claims no longer take place on the site, the parking of the 2 lorries constitutes a commercial use requiring planning permission and which is wholly unacceptable in this predominantly residential location, even on a personal basis. In particular, the passage of large commercial vehicles along the narrow access drive adversely affects the amenities of the occupiers of neighbouring properties, especially those in close proximity to the access. The access is unsuitable for use by such vehicles, and they are intrusive in such residential surroundings. Therefore the Council contends that the site is unsuitable for parking these vehicles.

9. From the representations and my observations of the site and its surroundings I consider the main issues on the appeal on ground (a) to be whether the parking of 2 lorries on the site causes unacceptable disturbance to the occupiers of nearby dwellings, unacceptable potential danger to users of the access way, or unacceptable harm to the appearance of the area.

10. Personal relations between your client and the occupier of one nearby dwelling are obviously very poor, and this may have coloured both the behaviour of and the representations made by the parties involved. I am not concerned with that dispute, but with the planning merits of the case only. The lorries used by your client are small by present standards, and the number of movements is very low. I would expect the degree of noise and disturbance caused to be correspondingly slight. The occupier of one of the houses adjoining the access way reports that no problems have been caused by the passage of the lorries during the past 20 years. I have concluded that unacceptable noise and disturbance has not resulted from the passage or parking of the lorries.

11. Noise and disturbance that tends to be associated with the servicing and repair of such vehicles, however, is in my opinion quite another matter. I consider such activities to be unacceptable because the site is in a predominantly residential area. You say that this now takes place exclusively at the Box Station depot, and to my mind it is necessary that repairs and servicing at the appeal site be limited to that which is incidental to the use of Myrtle Grove as a dwellinghouse.

12. On the issue of road safety my attention is drawn to an incident involving a collision between a lorry and the scaffolding that had been erected in the access way. That incident may possibly have resulted from the bad feelings referred to above. The access way is in my opinion sufficiently wide to allow the safe passage of the small number and size of the lorries in normal circumstances. Although it has no footways it does not seem to be part of a through pedestrian route and I have found no evidence that pedestrian use of it is other than very limited. To my mind the creation of a footway is not essential to the continued use of the appeal site for parking 2 small lorries. Therefore I consider that the normal use by such lorries does not give rise to unacceptable potential danger to other users of the access.

13. I turn now to the effect of the use upon the appearance of this part of Box. Much of the criticism in the letters of objection is directed to the appearance of the uncompleted garage, which is not a matter that is before me in determining this appeal, but I accept that vehicles brought to the site for repairs and maintenance and the storage of commercial vehicles not in regular service would be unsightly in this location, adding to the already rather cluttered appearance of the garage court. However, I consider the parking of 2 small lorries, one inside the large garage and the other between it and another building, to be relatively unobtrusive and not seriously harmful to the appearance of this part of Box.

14. The application that is deemed to have been made is for all of the activities alleged to be in breach of planning control. I appreciate that you seek planning permission only for the parking of the 2 lorries, not for the other uses referred to in the enforcement notice. I have concluded that whilst the parking of the 2 lorries is not unacceptable, the repair and maintenance of commercial vehicles should not be permitted. Therefore I propose to dismiss your client's appeal and uphold the enforcement notice in respect of repairs and maintenance to commercial vehicles but to allow the appeal and grant planning permission on the deemed application in respect of the parking and storage uses. In my opinion the acceptability of the latter does not depend upon the identity of the occupier but on the scale and

character of the use itself. A personal planning permission would not be appropriate in such circumstances. Therefore, in order to prevent the parking of much larger vehicles or more than 2 of them by a future occupier of the land I intend to impose conditions limiting the number of lorries that may be parked on the site to 2 and limiting the size to a maximum of 10 tonnes.

15. I have taken into account all the other matters raised in the written representations, but they do not affect my conclusions on the considerations leading to my decision. Therefore your client's appeal against the notice on ground (a) succeeds in part and I intend to grant planning permission for the parking and storage of up to 2 lorries on the deemed application subject to conditions.

FORMAL DECISION

16. For the above reasons and in exercise of the powers transferred to me I hereby allow your clients' appeal in respect of the parking and storage of commercial vehicles and grant planning permission for the parking and storage of commercial vehicles on the application deemed to have been made under Section 88B(3) of the 1971 Act subject to the following conditions:

1. no more than 2 lorries shall be parked or stored on the land at any one time;
2. no lorry exceeding 10 tonnes in capacity shall be parked on the land.

In so far as the appeal relates to the repair and maintenance of commercial vehicles I dismiss the appeal and uphold the enforcement notice.

17. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

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 Gentlemen
Your obedient Servant

J G Roberts

J G ROBERTS BSc(Hons) DipTP MRTPI
Inspector

ENC

IMPORTANT -

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YOUR PROPERTY**

District Secretary's Department,
G. C. Betteridge, LL.B., (Solicitor),
District Secretary



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Our ref **E** B 486

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8th January, 1988

Dear Sir/Madam,

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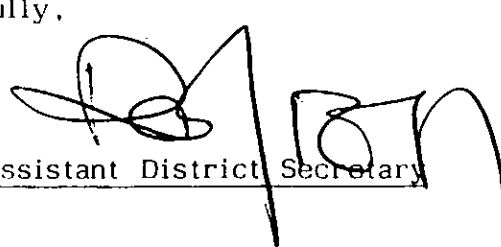
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Yours faithfully,

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED **15 February 1988**


Assistant District Secretary

To:

George A Purser
Myrtle Grove
London Road
Box
Corsham
Wilts.
SN14 9LY

E486

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

Reasons for issue:-

The commercial use in a predominantly residential neighbourhood, involving storage and occasional repair or maintenance of large commercial vehicles and their passage along a narrow access drive is unacceptable by reason of its adverse effect on the amenity of neighbouring properties, particularly those in close proximity to the access drive.

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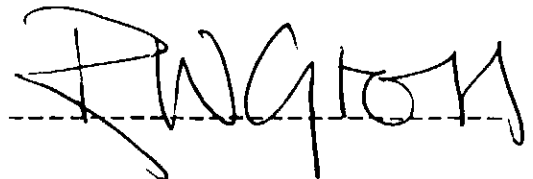
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ISSUED 8 January, 1988

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this notice relates

Land comprising the residential curtilage Myrtle Grove, London Road, Box, Corsham, Wiltshire together with rear access thereto from Bargates shown stippled on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The making of a material change in the use of the land from a residential use to a continuing residential use and, in addition, a commercial use for the parking storage repair and maintenance of goods vehicles.

SCHEDULE 3 - Steps required to be taken

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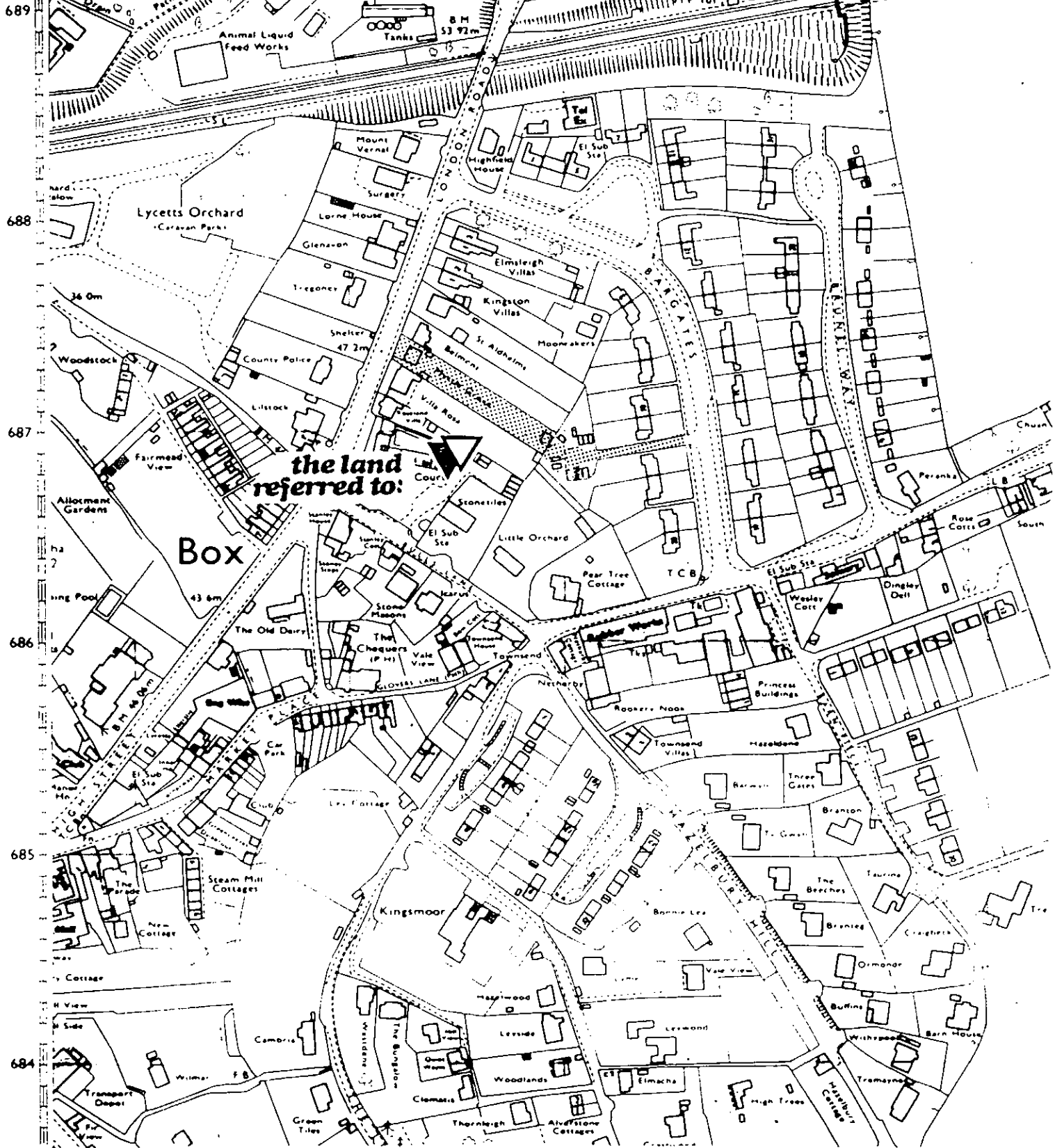
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NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1971 (as amended) ENFORCEMENT NOTICE



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