

NORTH WILTSHIRE DISTRICT COUNCIL

ENFORCEMENT INFORMATION

REGISTER SHEET

all
E/ 488

APPEAL

yes

no

Plan's Ref

ADDRESS

LAND AT CHANWORTH PARK
BRAYDON LANE.
CHICKADEE.

BREACH of CONTROL

THE MAKING OF A MATERIAL CHANGE IN THE
USE OF THE LAND FROM USE FOR THE PURPOSES
OF AGRICULTURE AND CIRCUS WHEEL
QUARTERS TO USE FOR THOSE PURPOSES
AND IN ADDITION, THE DISMANTLING OF
VEHICLES, INCLUDING HEAVY COMMERCIAL VEHICLES,
THE STORAGE OF VEHICLES AND PARTS OF
VEHICLES AND THE STORAGE OF SCRAP OF
METAL

Issuing Authority *NWDC*

Date Issued *17.6.88*

STOP NOTICES

Date Served

Requiring



488

Date(s) served

17.6.88

Takes effect *20.7.88*

Compliance by *20.1.89*

Dates Extended by
Secretary of State

*appeal dismissed
12.4.89. (Varied).*

Notice attached

Date withdrawn

REQUIREMENTS of ENFORCEMENT

- (i) TO CEASE THE USE OF THE LAND FOR THE
DISMANTLING OF VEHICLES
- (ii) TO REMOVE FROM THE LAND THE SAID VEHICLES,
PARTS OF VEHICLES AND SCRAP.

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** **E488** Enquiries to Mr McDonald

Your ref

17th June, 1988.

Dear Sir/Madam,

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

Land at Braydon Lane, Chelworth, CRICKLADE, Swindon, 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,

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED **20th July, 1988**


Assistant District Secretary

To:

Bryan H. Austen
Chelworth Manor
Chelworth Road
Cricklade
Swindon
Wilts SN6 6HE

Bryan H. Austen trading as
Austen Bros.
Chelworth Park
Braydon Lane
Cricklade
Swindon.
Wilts. SN6 6HE

Robert Cooper
P.O. Box 59, G.P.O.
SWINDON
SN5 9NX

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

Reasons for issue:

1. The development by reason of its scale, the activities involved, visual intrusion and potential pollution problems is seriously detrimental to the local environment and visual amenity in general and sets a precedent for the change of use of other adjacent land to similar unsightly uses further eroding the pleasant rural character of this area.
2. The development forms an intrusive industrial incursion into open countryside detrimental to rural amenity and establishes an industrial use outside the allocated areas shown in the Cricklade and Purton adopted Local Plan contrary to its policies and the general aims of planning to direct these uses to those areas best able to accommodate such development.
3. The roads which serve this development are inadequate and unsuitable without improvement to cater for the traffic generated by this use which detracts from highway safety and rural amenity.

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

Land at Braydon Lane, Chelworth, CRICKLADE, Swindon, Wilts.

WHEREAS :

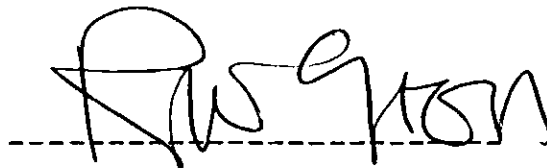
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises ("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 20th July 1988

ISSUED 17th June 1988

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

E488

SCHEDULE 1 - Land or premises to which this notice relates

Land at Braydon Lane, Chelworth, Cricklade, Swindon, Wiltshire
shown stipple edged on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The making of a material change in the use of the land from use for the purposes of agriculture and circus winter quarters to use for those purposes and in addition, the dismantling of vehicles, including heavy commercial vehicles, the storage of vehicles and parts of vehicles and the storage of scrap material.

SCHEDULE 3 - Steps required to be taken

- (i) To cease the use of the land for the dismantling of vehicles
- (ii) To remove from the land the said vehicles, parts of vehicles and scrap.

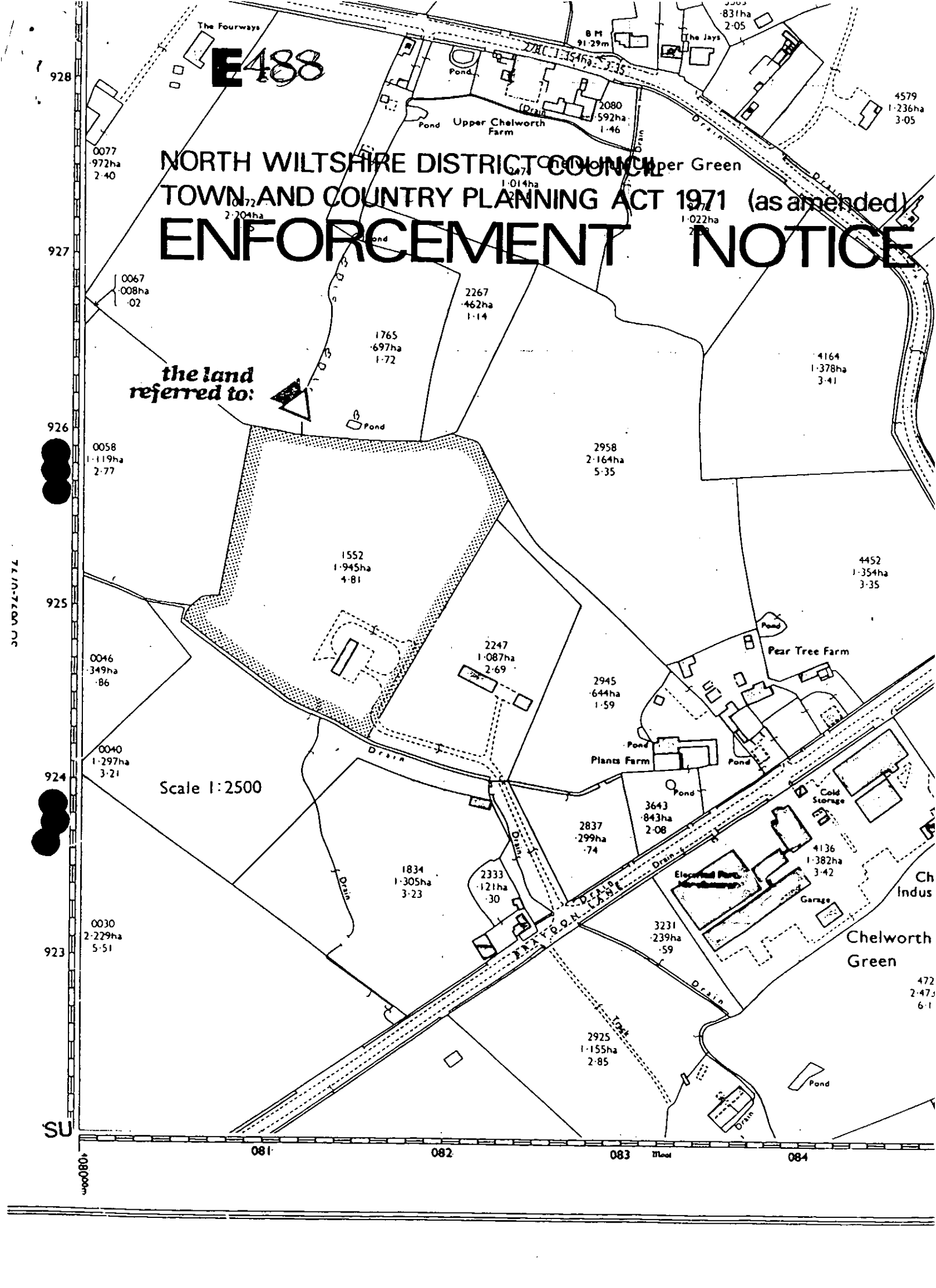
E488

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

the land referred to:



Scale 1:2500





Planning Inspectorate
Department of the Environment

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218915/26/38

Switchboard 0272-218811

GTN 1374

E 488

Dudley Oakshett
Chartered Surveyors
34 Lennox Gardens
KNIGHTSBRIDGE
London
SW1X 0DH

13 APR 89

Your reference
IDO/NB
Our references
T/APP/C/88/J3910/020/P6
T/APP/J3910/A/88/106869/P6
Council reference
McD/KP
Date 12 APR 89

Gentlemen

Appeal dismissed

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEALS BY B H AUSTEN ESQ
LAND AND PREMISES AT CHELWORTH PARK BRAYDON LANE CHELWORTH WILTS

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above appeals which are against an enforcement notice issued by the North Wiltshire District Council and against a refusal of planning permission by that Council concerning the above-mentioned land and premises. I held an inquiry into the appeals on 14 March 1989 after which I inspected the site and surroundings.
2. a. The date of the notice is 17 June 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 use for the purposes of agriculture and circus winter quarters to use for those purposes and in addition the dismantling of vehicles, including heavy commercial vehicles, the storage of vehicles and parts of vehicles and the storage of scrap material
c. The requirements of the notice are: (i) To cease the use of the land for the dismantling of vehicles, and (ii) To remove from the land the said vehicles parts of vehicles and scrap
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), (c), and (g) of the 1971 Act as amended.
3. The development for which planning permission was refused is the use of the land for dismantling commercial vehicles.
4. The Council's reasons for taking enforcement action refer in summary to alleged visual intrusion and pollution problems, precedent, impact on rural amenity, and the unsuitability of local roads. The reasons for refusing the Section 36 application, which relates to part of the land the subject of the enforcement notice, are expressed in the same terms.

PLANNING DEPT.	
17 APR 1989	
PASS.	

5. The enforcement notice relates to a roughly rectangular parcel of land extending to some 1.9 ha (4.8 acres). This field forms part of your clients overall ownership known as Chelworth Park, which has an area of some 7 ha (18 acres). The main use of this occupancy is as circus winter quarters for which a planning permission exists relating to about 1.8 ha (4.5 acres), part of which includes the appeal land. The balance of approx 5.2 ha (13.5 acres) is open, mainly rough pasture. The circus use was originally established here in 1972 and a planning consent, personal and conditional in nature, was issued in 1974. Subsequent developments led to the submission of a further application later and it is the terms of this permission, granted in 1980 (Doc 4(i)), which now govern the activities on your clients land.

6. Chelworth Park has a frontage to the north side of Braydon Lane, an unclassified country road without footpaths which terminates a little distance to the south west at the Government's Blakehill Communications Centre. This road joins the public highway system at a crossroads some 300 metres to the east of the Chelworth Park main entrance drive. Land on the south side of Braydon Lane from this junction westwards for a distance of some 1100 metres is earmarked by the local planning authority for industrial purposes in accordance with the provisions of the extant development plan for this area. Consequently a number of purpose built commercial premises (industrial, storage/warehousing and distributive in character), have been erected here in recent years. Other presently open land is intended by the council to be put to similar purposes in the future, for much of which planning permission has already been agreed. So the end result will be that in due course the southern side of Braydon Lane hereabouts will to my mind in all probability take on the appearance of a sizeable modern industrial estate.

7. So far as the council is concerned however the same attitude does not apply to the land on the north side of Braydon Lane, including your client's property. As I saw on my inspection the character and appearance of this particular area, extending in a broad wedge from the C70 road to the east of the appeal land in a westerly direction and bounded by the B4040 to the north and Braydon Lane itself to the south, seems to be essentially rural and agricultural. The appeal land occupies a fairly central position within these mainly open surroundings. This assessment stands even given your own submissions to the contrary, and the presence of certain business activities and your client's own use, within it. Hence I consider that this particular locality, including the land the subject of both appeals, which lies about 1 mile outside the nearest recognised settlement at Cricklade, should be regarded as countryside for the purposes of planning control.

8. At the time of my inspection the main part of Chelworth Park was in use for its permitted purpose, albeit I understand that some parts of your client's organisation were on the road. This use included the stationing of very large vehicles on the land together with other equipment and machinery etc. Many of these items were visible from Braydon Lane. Admittedly these activities constitute a departure from the otherwise typically rural qualities of the immediate vicinity. The council argued at the inquiry however that this situation is a direct result of the terms of the permissions which have been issued here in the past, which should be regarded as a response to exceptional circumstances and not a basis to sanction further inappropriate development.

9. The area the subject of the notice is set back from Braydon Lane by a distance of about 150 metres. It is approached via the main entrance to the overall site. This former field is enclosed on all sides (save to the south east) with hedgerows

with open land beyond. At the time of my inspection some 50% of this parcel (the western half) was overgrown, mainly unused and very wet underfoot. The remainder to the east - approximating to the Section 36 application site - was fully occupied, as several of your submitted photographs show, with dilapidated derelict and disused heavy vehicles, old trailers, lorry bodies, private cars, tyres, metal sections, and other parts, all placed in the open and some on top of the other, upto a height of 5 metres or more in places. Some of these items seemed to show some evidence of a past connection with circus activities but the majority did not.

10. Also within this area is an old metal clad nissen hut type structure inside which a lorry was parked and tyres and other items were kept. There is concrete hardstanding around this building. I understand that part adjoining to the north to be used for the dismantling activities themselves. The area to the south of the building is used for parking purposes and also contains a single unit mobile home utilised as an office.

11. I was told at the inquiry that although the land involved in these appeals remains in your client's ownership, it is actually occupied by another - Mr R Cooper - who trades as "Commercial Salvage". Mr Cooper indicated that he did not feel that he operated a scrapyards; the main purpose of his business was the dismantling of commercial vehicles of all types and the sale of the resultant materials, mostly either for export overseas or as waste. He also provided spare parts etc for use by your client's circus activities but this was now a minor element in the overall undertaking, perhaps amounting at most to some 10% of the total business in terms of quantity. His occupancy of the appeal land was informal, there being no written agreement with your client in this respect nor any payments to him.

12. Mr Cooper is self-employed. He has 8 other workers at the present. He operates 1 HGV and 2 breakdown lorries from this site. In a normal week he might receive upto 15 old commercial vehicles for disposal, originating from quite far afield or even from Ireland. Some are driven in by his own people whilst others might arrive on a low loader transporter. There might be between 50/100 lorries on his land at the time of the inquiry in various conditions.

13. He had been on this site for about 6/7 years. No problems had arisen until about 2 years ago. When he first arrived the land, which had previously been tipped with spoil from the construction of the M4 Motorway, had been cleared and levelled. There were concrete hardstandings under most if not all of the land involved dating from its earlier military use. Until about 2 years ago his activities here had been somewhat more extensive but in more recent times the export business had declined and the area occupied diminished as a result. The field had probably not been cultivated for agricultural purposes since some time before 1939 and its condition now was such that it was unsuitable for any farming pursuits.

14. Your client also told me that the appeal site had been used since 1972 for dismantling repair and maintenance of heavy vehicles and the storage of components, in connection with the circus use. This had been the position when Mr Cooper arrived, at which time a number of circus vehicles were still on the land. Should the enforcement notice be upheld this situation would return effectively making very little difference to the appearance of this part of the Chelworth Park area. The activities in dispute could not in any event be seen by the public at large. Should permission be granted as requested for the use of the 1 ha area the subject of the Section 36 proposal additional works would be undertaken to confine the activities to this area only and to further improve the screening of this site.

15. In reply to these various points the council adhered to its opinion that the use of the appeal land should be restricted to that permitted previously. Even though the activities may not be easily apparent to others they were nevertheless out of place in this rural locality and inconsistent with planning policy aims. Furthermore the traffic generated by the use would be of a particular and unpleasant nature, and an undesirable and unwarranted addition on the local road network, which comprised essentially fairly narrow country lanes which were unsuitable for extensive use by very large vehicles.

Ground (c)

16. The main point made on behalf of your client in this connection was that the alleged breach had not taken place on all the land indicated on the plan attached to the notice.

17. I note however that the occupier of this land accepted at the inquiry that his activities had at one time been somewhat more extensive than they are today. Some other parts of the same field - OS Parcel 1552 - had as a result been utilised. The councils evidence also seems to corroborate these statements. Also during the site inspection there was some evidence, in the form of metal pieces etc randomly distributed on the ground, of this having been the case.

18. In these circumstances I would not criticise the councils allegation as incorrect as a matter of fact. Moreover even had the activities complained about been restricted to part of the land I consider that it would have been open to me if necessary to correct the enforcement notice plan in this respect without any unfairness arising as a result. However given also the absence of any physical division between the different parts of this parcel at any relevant time I do not find that action to be appropriate in this instance. I am satisfied that the alleged breach has taken place as a matter of record and that the area of land delineated by the council should be regarded as reasonable. The appeal under this head therefore fails.

Planning Merit

19. In my opinion both appeals give rise to the same considerations in relation to merit. Accordingly I define the main issue to determine in each case to be, bearing in mind the objectives of relevant planning policies, the effect of this use on the character and appearance of these surroundings.

20. The statutory policy framework in this connection is to be found at present in the North East Wiltshire Structure Plan as approved in 1981 and the adopted Cricklade and Purton Local Plan (1984). Taken together I summarise the main aims of these documents as I see them, and so far as they bear on these appeals, to be the promotion of economic activity by encouraging new development to locate on suitable identified sites, whilst at the same time protecting the countryside from inappropriate uses of land. To this end Policy C6 in the Structure Plan and Policy L1 in the Local Plan (expressed in identical wording) seek to control development in the open countryside against certain stated criteria. I see no reason to question these attitudes nor to doubt their applicability to this case.

21. I understand these attitudes and intentions to be repeated and endorsed in other planning documents not yet finalised. These are the Structure Plan Alterations (No 1), as submitted to the Secretary of State in 1987, and the draft North Wiltshire Local Plan. An additional feature of these publications is the formulation of a "rural buffer" area around much of Swindon. The purpose of this definition is stated to be to "protect the rural area to the north, west and south of Swindon from further urban expansion and to prevent the coalescence of Wootton Bassett and Swindon. This will be achieved by restricting development in an area extending about 5 miles west and north west of Swindon from Wootton Bassett to Cricklade, and in the area between Swindon and the M4 Motorway." The appeal land falls within this designation.

22. Policies for the control of development in the rural buffer are set out in Structure Plan Policy RB1. Additionally para 4.218 in this plan states that "Development in the countryside is restricted to that required in connection with agriculture, forestry, or mineral workings,.....". I attach some importance to these contemporary provisions which I feel should be taken into account in this instance as material considerations, worthy of support at least until the plans concerned are finalised.

23. I have already indicated above that I regard the land the subject of these appeals to fall within open countryside for planning purposes, notwithstanding the existence of much development already hereabouts nor the likelihood that further industrial building will in all probability take place on the southern side of Braydon Lane in the quite near future. Furthermore this land is not either within a village nor on the edge of a settlement where policies say that additional employment development may well be acceptable. Consequently I reach the conclusion that the continued use of this part of your client's property for dismantling heavy vehicles, which is not an appropriate activity in the countryside in policy terms nor one which I regard as suitable in this position, should be described as inconsistent in principle with operative planning policies, even if restricted in extent to only 1 ha of the land.

24. The uses complained about should also be found to be out of accord to an undue degree with emerging guidance, the aims of which I see no basis to dispute at the present time. So to my mind there are sound and clear cut reasons here, based on concern to ensure that the predominantly rural environment of this part of the District should not suffer further diminution by the establishment of inappropriate commercial activities, to resist these appeals.

25. So far as amenity is concerned, I appreciate that the existing activities here may not be prominent in any views available to the public at large. However they would in my opinion still be apparent to some extent to others, such as the occupants of the adjoining circus quarters, the users of adjacent open land, those local residents who live in dwellings on the higher land to the north east of the appeal sites, and from some limited points in both Braydon Lane and along the C70 road. To the extent that these activities might be seen it appears to me that they could only reasonably be described as unattractive and an eyesore. This adverse visual impact may admittedly be reduced by landscaping measures some of which, such as the earth banking at the northern end of the land, have already been implemented, and which could be further ameliorated by additional works if permission were to be forthcoming. But to my mind such measures, however carefully carried out, could not guarantee that the activities involved here would become completely invisible. Even were this to be achieved, the fact that a use of land may not be noticeable does not

in my judgement demonstrate that the development in question should be found to be acceptable. Hence I do not consider that the activities before me now should be regarded as permissible on grounds of minimal visual effect.

26. Quite apart from these matters to consent to the use of this land as sought would it seems to me in all probability give rise to other undesirable consequences. The activities would involve the breaking up of lorries etc and the cutting of metal. Excessive noise, alien in nature to a rural setting, might well ensue at any hour. Even given the imposition of conditions it could well in my opinion be difficult to control the intensity of the use, both in terms of operations on the land and traffic generation. Notwithstanding your client's assurances to the contrary to my mind there could be no certainty that fires would not occur, nor that unwelcome smells and fumes might not result, thereby giving rise to the sort of environmental pollution which would be both out of keeping in this countryside area and possibly detrimental to sensitive industrial processes which I understand to be carried on by at least 1 nearby firm on the industrial estate. So all these factors add further weight to the reasoning already set out above to the effect that this is not a proper nor acceptable place for these unneighbourly and potentially offensive activities to take place.

27. You do nevertheless seek to support your arguments to the contrary by reference to the permitted uses of this land. I have carefully considered these points. I note that the previous Inspector in 1983 described Chelworth Park as a "special type of farm" (Doc 5(v)). I would not disagree with this terminology which I consider still stands today, even though there have been some changes in circumstances since that date to which my attention was drawn at the inquiry. I am also satisfied from the evidence and from what I saw on my inspection that the occupancy of the appeal land now has very little if any direct connection with the use of the remainder of your client's premises as a circus winter quarters. So the activities in dispute should be regarded at roots as a separate undertaking, and not essential to the needs of the circus. Hence I conclude that there are no grounds here to describe the operations in question as incidental nor ancillary to your client's circus business. Neither could the activities concerned, which to my mind and despite comments to the contrary could fairly be described as tantamount to an extensive scrapyard undertaking, reasonably be said to be an appropriate use of land on a farm, even of this unusual and peculiar form.

28. I have also carefully looked at the contents of the 1980 decision (Doc 4(i)), which your client accepts was implemented. I note that that permission does not extend to a good deal of the appeal land in any event. So much of this area does not enjoy consent for use as a circus winter quarters at all. Moreover to the extent that part of the land does fall within the permitted area, the actual uses agreed are set out in the decision. These are partly as "transport compound", and partly as "spare vehicle components" (upto a maximum height of 2.5 metres). The nissen hut structure is shown as "animal quarters and practice building".

29. There is no endorsement here of any commercial activities unconnected with the circus use, nor any specific reference to the dismantling of commercial vehicles. Thus I do not consider that the terms of this consent could be said to sanction the activities before me now. Nor do I agree that the nature of the present uses could be described as so similar to those which were previously permitted as ancillary components of the circus winter quarters occupancy as to become acceptable in their own right. Consequently I find that the submissions put forward on behalf of your client on this aspect of the case should not be supported.

30. In summary I consider that the uses in dispute should be regarded as amounting to the introduction of inappropriate industrial activities of a substantial extent into essentially open rural surroundings, unconnected with any permitted or otherwise authorised use of your client's land, and thereby contrary to important planning policy intentions. In addition the likely consequences of a permission on the amenities of this locality would in my view be so severe as to be unacceptable. These disadvantages are sufficiently strong to my mind as to constitute demonstrable harm. Accordingly the ground (a) appeal fails and the deemed application should be rejected. By the same token the Section 36 appeal also fails.

Ground (g)

31. Your client's concern under this head was that the requirements of the notice did not recognise the permitted use of the land as agreed in 1980. Hence if he had to comply with all the steps as drafted he would in effect be removing from the land vehicles and equipment etc which to date could have been kept here pursuant to the terms of the earlier consent. This would be unreasonable.

32. I have some sympathy with these remarks. However any defect in the notice in this connection could in my opinion be remedied without injustice by utilising the powers of variation which are available to me. As alluded to during the proceedings I consider that this could be achieved by amending the terms of Schedule 3 of the notice by the insertion of a "savings" clause. Accordingly the ground (g) appeal succeeds to this extent. This apart I intend to uphold the notice and confirm the councils actions.

33. I have taken into account all other matters raised, including the representations received from others (both pro and con), the difficulties involved in finding acceptable sites for activities of this sort, the benefits gained from recycling waste materials, the arrangement of the local road system both in its existing form and as intended to be improved, government policies with regard to employment and the encouragement of individual enterprise, the terms of discussions undertaken between yourselves and officers of the council, and the limited agricultural usefulness of the appeal land, but none in my assessment alter the analysis which has led to my decision.

FORMAL DECISION

34. For all the above reasons and in exercise of the powers transferred to me, I hereby determine these appeals as follows:

Section 88 Appeal

35. I direct that the enforcement notice be varied by the addition at the end of Schedule 3 of the following words :- "except insofar as may be authorised by the provisions of planning permission No N.80.1433 dated 22 December 1980".

36. Subject to this variation I dismiss your client's appeal, uphold the enforcement notice, and refuse the deemed application.


Section 36 Appeal

37. I hereby dismiss your client's appeal.

RIGHT OF APPEAL AGAINST DECISION

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

I am Gentlemen
Your obedient Servant

A handwritten signature in cursive script, appearing to read 'Arthur Lemon', with a long horizontal stroke extending to the right.

ARTHUR LEMON BA(Hons) DipTP MRTPI
Inspector

ENC

Ref no:-

T/APP/C/88/J3910/020/P6

APPEARANCES

FOR THE APPELLANT

Mr I D Oakshett Dip LA
ARVA ARICS

Chartered Surveyor, of
Dudley Oakshett Chartered
Surveyors 34 Lennox Gardens
Knightsbridge London

He gave evidence himself and called :-

Mr B H Austen

the appellant, of Chelworth
Manor Chelworth Road
Cricklade Wilts

FOR THE PLANNING AUTHORITY

Mr J F McDonald

Principal Administrative
Officer with the Council

He called:-

Mr R A Hill BA MRTPI

Chief Planning Officer
with the Council

INTERESTED PERSONS

1. Mr R Cooper

of Chelworth Park Braydon
Lane Cricklade Wilts

2. Mr D G Cottee

of Brookfield Farm Braydon
Lane Cricklade

3. Mrs K Coole

of 31 Calcutt Street
Cricklade, representing the
Cricklade Town Council

4. Mrs S F Brooks

of 64 High Street Cricklade,
representing the CPRE
North Wilts Group

and

5. Mr C G Howard

Chairman and Chief Executive
Officer, Semitron Cricklade
Ltd Braydon Lane Cricklade
Wilts

DOCUMENTS

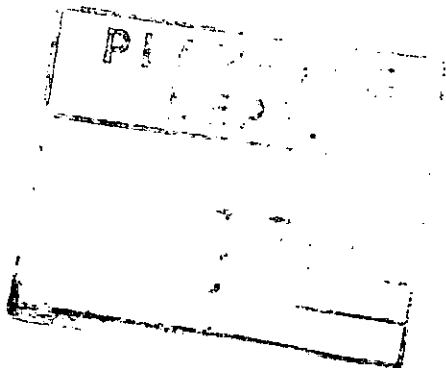
Document	1	List of persons present at the inquiry
..	2	Notification of the inquiry
..	3	Representations received
..	4	Bundle submitted by Mr Oakshett
..	5 by Mr Hill

PLANS

Plan	A	The enforcement notice and plan
Plan	B	The Section 36 application plan
Plans	C(i)-(iii)	Submitted by Mr Oakshett
Plans	D9i)-(ii)	Submitted by Mr Hill

PHOTOGRAPHS

Photos	1-18	Submitted by Mr Oakshett
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Planning Inspectorate
Department of the Environment

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

Direct Line 0272-218915/36/38
Switchboard 0272-21881915
GTN 1374

Mrs. J. Darel

E 488.

Mr W J Pratt
"The Gallons"
Chelworth
Cricklade
SWINDON
SW6 6HJ

PLA.
-3 FEB 1989
PAC

Your Reference:

Council Reference:

McD/KP AD/991

Our Reference:

T/APP/C/88/J3910/8-10/P6

Date:

30 Jan 89

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEALS BY MR R COOPER
LAND COMPRISING O.S. PARCEL 8316, CHELWORTH ROAD, CHELWORTH, CRICKLADE

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeals. These appeals are against 3 enforcement notices issued by the North West Wiltshire District Council concerning the above-mentioned land. I held a local inquiry into the appeals on 15 November 1988 and inspected the site and its surroundings on that day and on 16 November 1988.

Notice A - *Upheld but varied*

2. a. The date of the notice is 5 February 1988.
- b. The breach of planning control alleged in the notice is the construction of fixed buildings being former vehicle bodies, placed in and cemented into concrete foundations and floors.
- c. The requirements of the notice are to take down the buildings, to take up the foundations and floors and to remove the resultant materials from the site.
- d. The period for compliance with the notice is six months.
- e. The appeal was made on the grounds set out in Section 88(2) (b) of the 1971 Act as amended but at the inquiry ground (h) was added.

Notice B - *Upheld but varied*

3. a. The date of the notice is 5 February 1988.
- b. The breach of planning control alleged in the notice is the removal and mounding of top soil, the tipping of waste material, the laying of hardcore, tarmacadam and concrete and the construction of hardstandings.
- c. The requirements of the notice are to remove the waste material from the land, to take up and remove concrete and like materials where not consistent with an agricultural use of the land and to restore the land to a state compatible with good husbandry.

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

e. The appeal was made on the grounds set out in Section 88(2) (b) of the 1971 Act as amended but at the inquiry ground (h) was added.

Notice C - *Upheld but varied*

4. a. The date of the notice is 5 February 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 use for the purpose of agriculture to use for that purpose and in addition, the storage of building materials, sectional buildings, commercial vehicles, motor cars, trailers, van bodies, caravans, machinery and associated parts.

c. The requirements of the notice are to cease the use of the land for storage other than agricultural storage and to remove from the land the building materials, sectional buildings, commercial vehicles, motor cars, trailers, van bodies, caravans, machinery and associated parts.

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

e. The appeal was made on the grounds set out in Section 88(2) (b) of the 1971 Act as amended but at the inquiry ground (h) was added.

SITE AND SURROUNDINGS

5. The appeal site lies in pleasant, generally open, countryside to the south-west of the small town of Cricklade. The area of land is irregular in shape and about 6 ha. (14 acres) in extent. It lies on the south side of Chelworth Road (C70).

6. There is a new vehicular access to the land at the western end of the frontage to Chelworth Road. From there a hardcore-surfaced track runs southwards onto the site. About 60m. down the track from the entrance is a sizeable area of hardstanding, surfaced mainly with gravel, on the west side of the track and extending up to the site boundary. The approach to the hardstanding from the track is between recently constructed stone gate posts. On the north side of the area of hardstanding is, among other things, a row of 3 former van bodies. These are set into concrete bases and adjoined by low walls and cattle fences. At the time of my visit one structure contained 9 store cattle and one contained hay. On the south side of the area of hardstanding is a sizeable bund of earth.

7. To the south of the hardstanding the hard surfaced track runs southwards to the southern boundary of the appeal site. Over much of its length this section of track lies above the original level of the adjoining land. It has evidently been constructed on made up ground comprised of builders rubble, soil and waste. On either side of this section of track very substantial quantities of the same materials have been deposited on the land to varying heights.

8. At the time of my visit work was well in hand on the installation of a system of sizeable and deep drains, over much of the field. The basic pattern is shown on Mr Cooper's sketch plan (Plan D). There are a number of mounds of excavated soil on the site, associated with the pattern of drains and I was told by Mr Cooper at the inquiry that these mounds were temporary, arising from the installation of the drainage channels.

9. A sizeable part of the appeal site is not affected by the drains, particularly the north-eastern, south-eastern and south-western fringes, and these areas have a grass surface. A small number of horses were grazing on these areas at the time of my visit.

10. Scattered over much of the site, but concentrated on and around the area of hardstanding and the northern section of access track, are a very large number of abandoned commercial vehicles, van bodies and vehicle parts and a few abandoned cars.

11. To the north, east and south-east of Mr Cooper's land is generally open farmland. To the south-west is the main part of the former Blakehill airfield, now a Government communications centre. This area also has a generally open, rural, appearance. To the west is a stretch of generally open farm land, in which lies your own house and its associated buildings, and beyond is the small settlement of Chelworth Lower Green, which includes a small industrial estate.

HISTORY OF THE APPEAL SITE

12. Mr Cooper bought the appeal site from you and took possession of it early in 1987. At that time it was a grass field.

13. In the middle of January 1988 Council officers visited and photographed the land. On the basis of the photographs and the evidence given at the inquiry I conclude that at the date the enforcement notices were issued the following main works had been undertaken and uses commenced by Mr Cooper:-

1. three fixed buildings, former vehicle bodies set in concrete bases, had been erected;

2a. an area of hardstanding, with a gravelled surface, had been constructed on part of the north-western fringe of the land;

2b. a length of hardcore-surfaced track had been constructed from the Chelford Road, C70, to the area of hardstanding;

2c. builders rubble, soil and waste material had been deposited on the land adjoining and to the south of the area of hardstanding;

2d. a length of hardcore-surfaced track, continuing the track from the C70 road, had been constructed south from the area of hardstanding to the southern boundary of the site;

2e. top soil had been removed from the land adjoining the track referred to in 2d. above and mounded;

3. a large number of commercial vehicles, van bodies and vehicle parts and similar items had been stationed on the land.

14. It is clear that since that date further changes have taken place up to the time of my inspection including:-

1. the construction of stone walling and gate posts on the hardstanding area;

2. the deposition of a great deal more builders rubble, soil and waste material on the land, including the formation of the bund beside the area of hard landing;
3. work on the construction of a system of drains and the earthmoving associated with that.

THE APPEALS ON GROUND (b)

The Cases

15. With regard to notice A you said that the buildings were for agricultural purposes and as such were permitted development under the Town and Country Planning General Development Order (GDO). The Article 4 Direction referred to by the Council was no longer applicable as it had not been made by the Council and as the airfield had now closed. On notice B you contended that the works were requisite for agriculture and again permitted development. The track was needed to work the land agriculturally, the hardstanding was needed to erect farm buildings on, the tipping was to raise the level of the land to improve it, as were the drainage works. With regard to notice C you said in the original grounds of appeal, but not at the inquiry, that the alleged storage uses were all temporary things, associated with the agricultural use. The "sectional buildings" were parts of one barn, to be erected and then used agriculturally and the "building materials" had been needed to do the agricultural works.

16. The Council rejected all of these points. They said that an Article 4 Direction had been made in 1974, by the Wiltshire County Council, to protect the airfield site. It had been confirmed by the Secretary of State for the Environment and the Council now administered it, along with the County. It remained in force and relevant. The provisions of the Direction effectively took away all of the permitted development rights claimed by the Appellant under Class VI of the GDO. Its provisions meant that express planning consent was required for the erection of the buildings subject of notice A. With regard to notice B they repeated the above arguments. They also said that, in addition, Mr Cooper could not claim agricultural permitted development rights in any event, because at the time the works had been undertaken the land had not been in effective agricultural use as an agricultural unit. Moreover the tipping was an "other operation" and involved waste material brought onto the land from elsewhere, and for those reasons also fell outside permitted development rights. On notice C the Council said that the land was not being used for agricultural storage. It was being used as a large vehicle, machinery and plant store in connection with Mr Cooper's vehicle breaking business being carried on at another site nearby.

Inspectors Conclusions

Notices A and B

17. Dealing first with notices A and B the main point is the existence of the Article 4 Direction. That Direction was made; it was confirmed by the Secretary of State; it has not been withdrawn. It does not matter which local planning authority made it originally. It remains in force. The provisions of the Direction mean that a specific planning permission must be obtained for building or engineering operations requisite for the use of the land for agriculture. It follows, in my judgement, that a specific planning permission is required for all of the development subject of notices A and B. No such permission has been obtained.

18. I am also of the opinion that even if the Article 4 Direction had not existed a specific planning permission would still have been required for the 3 buildings the subject of notice A and for the development the subject of notice B. To benefit from the provisions of Class VI of the GDO 1977-86 (Part 6 of the GDO 1988) it is necessary to show, among other things, that at the time the operations concerned were undertaken the land formed part of an agricultural unit which was in active use for agriculture as a trade or business. I am not satisfied that Mr Cooper has shown that to have been the case, on the balance of probability. There is no clear evidence that at the relevant time he was using the land for agricultural purposes to any material extent. At most a few animals had been grazed there and a hay crop had been taken. I do not regard that as meeting the qualifying criteria. I conclude that the Appellant's appeals on ground (b) against notices A and B should fail.

19. To improve the clarity of the allegation in notice A I shall amend it to specify that it relates to 3 buildings, the number on the site at the date the notice was issued. I am satisfied that this correction can be made without injustice.

20. In the light of my conclusions, set out in paragraph 13 above, about what was on the site at the date on which the notice was issued, I consider that the description of the alleged breach of planning control set out in notice B could be made more simple and precise, and that it would be of benefit to all concerned if this were done. Accordingly I shall correct the wording of the alleged breach to reflect my own description, set out in paragraph 13 above. I am satisfied that this correction can be made without injustice.

Notice C

21. Turning to notice C it is clear to me from the Council's evidence that the number of vehicles, van bodies and vehicle parts on the land at the date the enforcement notice was issued was so great that they could not possibly represent a temporary, or permanent, use of the land associated with the use and development of Mr Cooper's land for agriculture. A storage use not connected with agriculture has been introduced and the appeal on ground (b) against notice C fails.

22. Notice C has certain limited defects however. I consider that the allegation in the notice relating to the storage of building materials is misconceived. In my opinion that was not a storage use. The materials concerned were on the land for use in the construction of the hardstanding and buildings. An appeal on ground (c) - that the breach of planning control alleged in the notice has not taken place - would have succeeded in that respect. Accordingly I shall delete the reference to the storage of building materials from the notice. In addition it is clear that parts of one sectional building only had been stored on the site, not more than one as the words of the notice imply. I shall correct the notice in this respect to refer to one sectional building only.

THE DEEMED PLANNING APPLICATIONS

23. I explained at the inquiry that although Mr Cooper has not appealed against the notices on ground (a) - that planning permission ought to be granted for the developments to which the notices relate - he is deemed to have applied for planning permission to retain the developments and to continue the uses subject of the notices, by virtue of having appealed against the notices on ground (b). Accordingly I shall now consider the merits of the deemed applications. In this regard I repeat the point I made at the inquiry

that the deemed planning applications relate to the developments which had taken place up to the time the notices were issued. The developments undertaken after that date cannot be the subject of the notices and are not before me for consideration.

The Cases

24. In support of Mr Cooper's case it was emphasised that he had bought the land for agricultural purposes, to improve it agriculturally, by raising the levels, by drainage improvements and by keeping livestock. The land was very heavy and poorly drained. Mr Cooper had made a substantial start in raising the levels by tipping and was in the process of laying a network of French drains. The building of the access track across the land had been a necessary first step in this scheme. Mr Cooper was proceeding with the works as fill material became available from his contracting jobs elsewhere and as and when staff were available. The land did look untidy at present but when the work was completed it would be a credit to the area. Mr Cooper's long term plan was to build up a livestock enterprise. At present he had 9-10 store cattle and horses on the land. The 3 buildings subject of notice A were the first stage in the establishment of farm buildings on the land. The buildings and the hardstanding were very suitable for agricultural use. The bund beside the hardstanding area was constructed to screen the buildings and it was to be landscaped. Mr Cooper was not interested in using the land as a scrapyard. All of the vehicles stored on the land could go. But he was determined to farm the land and to improve it, with the profits from his other enterprises. He had been victimised by the Council and local interests, over this site and over his other site nearby, and he now sought a fair deal from the Inspector. It should be remembered that the neighbourhood was not open countryside, much of it being closed off by the Ministry of Defence and covered by the remains of the airfield.

25. The Council pointed out that the approved structure plan for the county, and its draft alterations, and the statutory local plan for the area, sought to protect the rural landscape. The structure plan alterations emphasised that proposals for new buildings would not normally be permitted except in or adjoining existing settlements. The appeal site lay in open countryside and did not adjoin a settlement. The Council's plans made adequate provision for industrial and commercial development elsewhere. Mr Cooper's developments were all in conflict with the well established policies. The appeal site was prominent in the landscape, especially in winter. The works and uses being enforced against formed a very serious visual intrusion in the countryside, detrimental to the pleasant rural appearance of the area, an interest of acknowledged importance. The imposition of conditions on a planning permission, for example relating to landscaping, would not overcome these objections. The Appellant was not running a farm at the appeal site. There were few livestock on the land. There was no firm evidence he had farming experience. He had not taken expert farming advice. There was no evidence that his land improvement and drainage ideas had been carefully worked out. In agricultural terms such a scheme was likely to be uneconomic and the traffic arising from it could be a serious problem. The Council would always give serious consideration to a properly worked out land improvement scheme designed to achieve a sensible final objective but no such scheme was in evidence in this case.

26. The Ministry of Defence supported the Council at the inquiry. The former Blakehill airfield was now a Government communications station. The matter had been investigated carefully. The accumulation of scrap metal on the site would impair radio communications and should not be permitted.

27. The Cricklade Town Council supported the Council. The unauthorised developments represented a most blatant breach of planning control, a rape of the countryside, which, if permitted, would set a most damaging precedent, bearing in mind the Appellant's past uses, and threatened uses, of the land. The accumulation of a very large number of vehicles and parts was most offensive, visually. The access road was an eyesore and its future use - and that of the buildings - would not be agricultural, if permitted to stay. The Appellant's drainage works might cause flooding on the public road.

28. The Council for the Protection of Rural England (North Wilts. Group) supported the Council, for reasons similar to those advanced above. They expressed particular concern about burning on the site and the effects of the traffic associated with the alleged scrapyard use.

29. I have also considered all of the written representations made, including those made by supporters of the Appellant, by the Country Landowners Association, the National Farmers Union and other parties and persons.

Inspectors Conclusions

Notice A

30. Dealing first with the development subject of notice A I take the view that the main issues concern the effects of the 3 buildings on the appearance of the area and the extent of the agricultural justification for their retention.

31. The appeal site lies in pleasant countryside outside any settlement. The presence of the 3 buildings has some detrimental effect on the open appearance of that countryside, by adding to the amount of built development there. However the buildings are small and low and in my opinion are not very obtrusive in visual terms. The adjoining bund created by Mr Cooper screens them from some directions. Further landscaping, which could be the subject of a condition on a planning permission, would help to merge them into the landscape.

32. At the inquiry Mr Cooper stressed his wish to use his land for agriculture and I accept the sincerity of those intentions, albeit the land is of limited size for a farm holding and albeit a good part of it could not be used agriculturally at present, because, for example, of the unauthorised vehicle storage use. The Appellant has a few animals on the land now and the 3 buildings would not represent an excessive provision of cattle accommodation on a site of some 6 ha when used for livestock rearing. The buildings appeared to me to be adequate for housing small numbers of stock and I have borne in mind that normally planning permission is not required for the use of rural land for agricultural purposes.

33. I have noted the concern that these buildings could be used for non-agricultural purposes, but that situation could be safeguarded by the imposition of a condition on a planning permission restricting their use to agriculture only. I am satisfied that the use of these small buildings for agriculture would not cause any harm to Ministry of Defence interests and the limited amount of traffic likely to be associated with their agricultural use would not be intrusive in this rural area.

34. On balance I conclude that there are no precise, specific and relevant reasons for the refusal of planning permission for the retention of the 3 buildings for agricultural use. Accordingly notice A will be quashed and planning permission will be granted, subject to a landscaping condition and to the condition referred to in paragraph 33 above.

35. Mr Cooper should note, however, that although I am granting permission in respect of the 3 buildings it does not follow, necessarily, that I would grant consent for any further buildings erected after 5 February 1988. He should also be in no doubt that the permission being granted is for the agricultural use of the buildings only.

Notice B

36. Turning to the development subject of notice B the main issues are the same as those I defined in relation to notice A. In this case I propose to grant planning permission for part only of the development involved. I shall give consent for the retention of the length of hardcore access track which runs from Chelworth Road to the area of hardstanding and for the area of hardstanding itself. While the presence of these surfaces has some adverse effect on the rural appearance of the area they are, in themselves, not very obtrusive visually. The hardstanding is screened to some extent by the bund and it could be screened further by more landscaping. There is justification for the retention of the hardstanding and the connecting length of track to facilitate the use of the 3 small buildings, subject of notice A, for agriculture. On balance the planning objections to the retention of this development do not seem to me to be sufficient to justify withholding consent, provided that the consent is subject to the 2 conditions referred to in paragraphs 31 and 33 above, which will be imposed for the reasons given above.

37. I have come to different conclusions about the rest of the development the subject of notice B, that is the southern, much longer, section of track, the builders rubble and other material deposited elsewhere on the land and the mounds of soil. I consider that as things stood at the date of the enforcement notice, and indeed at the date of my inspection, the development formed unsightly, obtrusive and alien features in the pleasant, rural setting of the appeal site. Some improvement to the appearance of the development could be made by the grading and levelling of the material and the seeding of the resulting surface but in my opinion the development would still look obtrusive and out of place. I do not think it could be made to look acceptable in visual terms by the imposition of conditions on a planning permission. The Council's policies seek to protect the appearance of the countryside. In my opinion the development causes demonstrable harm to that interest of acknowledged importance.

38. Turning to the agricultural need for the development I can see no justification for the building of the southern section of track simply to assist the running of a holding of only about 6ha., when buildings and an area of hardstanding now exist near to Chelworth Road. I note the Appellant's evidence that the track and the other works are an essential part of his land improvement scheme for the whole site. I appreciate that he has already spent a great deal of effort and resources on drainage and other works on the site in connection with that. If such an improvement scheme were to be implemented the length of track and the other development would be incorporated in it. The development would then be much less obtrusive visually. However no overall improvement scheme is before me for decision and accordingly I cannot make a decision upon it. Any such scheme would be considered by the Council in the first instance. In the circumstances I can see no justification, on agricultural grounds, for the retention of the southern length of track, the deposited material and the mounds of soil at the present time. Accordingly planning permission will not be granted for that development.

39. Mr Cooper should note, therefore, in respect of notice B, that planning

permission is only being granted for the retention of the northern length of track and for the area of hardstanding, and that their use is to be for agricultural purposes only.

Notice C

40. Turning to the development subject of notice C the main issues are the effects of the development on the appearance of the area, the extent of the agricultural justification and the possible effects on Government communications.

41. When I visited the appeal site and its surroundings I was struck forcibly by the impact of the presence of the many vehicles, vehicle bodies and parts on the general appearance of the surrounding area. The mass of vehicles and other items forms an incongruous and very ugly feature in the countryside, prominent in the landscape when seen from nearby roads and from the entrance to the site. In my opinion the use is highly damaging to a pleasant rural area. The presence on the land of the parts of a sectional building is also harmful to the appearance of the area. I can see no agricultural justification for what is clearly a storage use unrelated to agriculture. Indeed I am firmly of the view that the continuation of the storage use is incompatible with any sound use of the land for agricultural purposes. In the light of the representations made by the Ministry of Defence I take the view that the presence of so much metal close to the communications centre would have an adverse effect on the functioning of that centre. I am unable to see how any of these compelling objections to the use could be overcome by the imposition of conditions on a planning permission or other means of planning control. Accordingly planning permission will not be granted on the deemed application. At the inquiry Mr Cooper said that he was not interested in using the land as a scrap yard and that all of the vehicles could go. I accept the sincerity of his intentions on the matter.

THE REQUIREMENTS OF THE NOTICES

42. The Appellant has made no appeals against the notices on ground (g) - that the requirements of the notices are excessive. However at the inquiry the Council indicated, in relation to notice B, that the builders rubble and other material already deposited on the site need not be removed from the land - as stipulated in the notice - provided that the remaining requirements were retained or, if planning permission were to be granted, conditions were imposed requiring the deposited material to be levelled and graded, covered with topsoil and the topsoil seeded with grass seed. As I am not granting planning permission in respect of much of the development subject of notice B I shall amend the requirements of the notice to reflect the Council's concession. As varied the requirements will provide for a restoration scheme to be agreed and implemented. The restoration scheme should require that the deposited materials be levelled and graded and covered with topsoil and that the topsoil be seeded with grass seed. The restoration scheme would relate to the unauthorised development covered by notice B for which I am not granting planning permission.

43. The requirements of notice C will be varied to reflect my conclusion in paragraph 22 above that the allegation relating to the storage of building materials should be deleted from the notice and that the reference to sectional buildings should be changed.

THE APPEALS ON GROUND (h)

44. These appeals are on the basis that the time allowed by the Council for compliance with the notices, 6 months in each case, is too short.
45. As notice A is to be quashed Mr Cooper's appeal on ground (h) against that notice does not fall to be considered.
46. With regard to notice B I am fully aware of Mr Cooper's wish to implement a land improvement scheme for the whole of the appeal site. I make no comment on the merits of such a scheme in agricultural terms, as no comprehensive scheme is before me for consideration, but the Council do not appear to have any objection to the principle of such a scheme. If one were to be approved by them and implemented by Mr Cooper then there would be no need for Mr Cooper to implement the requirements of notice B as well. To allow for the possibility that such a scheme could be approved by the Council and progressed in the near future I shall extend the period for compliance to give the Appellant 9 months to take the actions required of him. To that extent the appeal on ground (h) succeeds.
47. Turning to notice C you made no detailed representations in support of the ground (h) appeal in relation to this notice. I am satisfied that a period of 6 months is sufficient for the use to cease and for all of the items stored to be removed from the land. The appeal on ground (h) fails in relation to notice C.
48. I have examined all of the other matters raised but find nothing to change my decision.

FORMAL DECISION

Notice A

49. For the above reasons and in exercise of the powers transferred to me I hereby direct that the notice be corrected at Schedule 2 by the insertion of the word "three" after the words "construction of". Subject thereto I allow the appeal, direct that the notice be quashed and grant planning permission, on the application deemed to have been made under Section 88B(3) of the Act, for the retention of 3 fixed buildings being former van bodies, placed in and cemented into concrete foundations and floors, at O.S. parcel 8316, Chelworth Road, Chelworth, Cricklade, subject to the following conditions:

1. the buildings hereby permitted to be retained shall not be used for any purpose other than for agriculture;
2. within 3 months of the date of this letter a scheme of landscaping of the area adjoining the buildings shall be submitted to the local planning authority for approval. The scheme shall be carried out within 12 months of its approval. Any trees or plants which within a period of 5 years from the carrying out of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Notice B

50. For the above reasons and in exercise of the powers transferred to me I hereby direct that the notice be corrected at Schedule 2 by the deletion of the main part of the Schedule and the substitution therefor of the words:

- "1. the construction of an area of hardstanding;
2. the construction of a length of hardcore-surfaced track from Chelford Road, C70, to the area of hardstanding;
3. the deposition on the land of builders rubble, soil and waste material;
4. the construction of a length of hardcore-surfaced track from the area of hardstanding to the southern boundary of the site;
5. the excavation and mounding of topsoil."

Subject to the above I hereby allow the appeal insofar as it relates to the construction of the area of hardstanding and the construction of the length of hardcore-surfaced track from Chelford Road, C70, to the area of hardstanding, at O.S. parcel 8316, Chelworth Road, Chelworth, Cricklade, and grant planning permission for the retention of that development, subject to the following conditions:

1. the length of track and the area of hardstanding hereby permitted to be retained shall not be used for any purpose other than for agriculture;
2. within 3 months of the date of this letter a scheme of landscaping of the area adjoining the length of track and the area of hardstanding shall be submitted to the local planning authority for approval. The scheme shall be carried out within 12 months of its approval. Any trees or plants which within a period of 5 years from the carrying out of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species:

In addition I direct that the notice be varied as follows:

- a. by the deletion from the paragraph headed "NOTICE IS HEREBY GIVEN" of the words "within the period of 6 months from the date on which the notice takes effect" and the substitution therefor of the words " the period specified in the Requirements";
- b. at Schedule 3 by the deletion of the the main part of that Schedule and the substitution therefor of the words "the land shall be restored in accordance with a scheme to be agreed with the local planning authority or in default of such agreement as shall be determined by the Secretary of State. Such a scheme is to be submitted to the local planning authority within 3 months of the date on which the notice takes effect and the agreed scheme shall be implemented within 6 months of the date of agreement or determination as the case may be".

Subject to the above I dismiss the appeal and uphold the notice insofar as it relates to the deposition on the land of builders rubble, soil and waste material, the construction of a length of hardcore-surfaced track from the area of hardstanding to the southern boundary of the site and the excavation and mounding of topsoil and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Act.

Notice C

51. For the above reasons and in exercise of the powers transferred to me I hereby direct that the notice be corrected at Schedule 2 by the deletion of the words "building materials, sectional buildings" from that Schedule, and the substitution therefor of the words "one sectional building". I further direct that that the notice be varied at Schedule 3 by the deletion of the words "building materials, sectional buildings" and the substitution therefor of the words "one sectional building". Subject thereto I uphold the notice as corrected and varied, dismiss the appeal and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Act.

52. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of the permissions granted above has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the the authority fail to give notice of their decision within the prescribed period.

53. This letter does not convey any approval or consent which may be 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

54. 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



A J J STREET MA(Oxon) DipTP MRTPI
Inspector

ENC

APPEARANCES

FOR THE APPELLANT

Mr W J Pratt

- "The Gallions", Chelworth,
Cricklade.

He presented the Appellant's
case, gave evidence himself
and called:

Mr R Cooper

- Appellant.

Mr F J Cremin

- Barncombe House, Westmill
Lane, Cricklade; local
resident.

FOR THE PLANNING AUTHORITY

Mr J F McDonald

- Principal Administrative
Officer with the Council.

He called:

Mr R Williams MRTPI

- Principal Planning Officer
with the Council.

FOR THE MINISTRY OF DEFENCE

Mr M R Evans

- Ministry of Defence,
Leatherhead Road, Chessington,
Surrey.

CRICKLADE TOWN COUNCIL

Mr B E Atfield

- Member of the Town Council.

Mr G W Hobbs

- Chairman of the Town Council.

Mrs K Coole

- Member of the Town Council and
of the District Council.

Mr N Hayes

- Member of the Town Council.

COUNCIL FOR THE PROTECTION OF RURAL ENGLAND

Mrs S Brooks

- 64 High Street, Cricklade.

DOCUMENTS

Document 1 - Attendance list.

Document 2 - Notice of inquiry and circulation list.

Document 3 - Extracts from structure and local plans.

Document 4 - Letter dated 20 October 1988 from the Ministry of Defence.

- Document 5 - Copy of Article 4 Direction and plan submitted by the Council.
- Document 6 - Bundle of papers submitted by Mr N Hayes.
- Document 7 - Bundle of letters from the National Farmers Union, the Country Landowners Association, the Council for the Protection of Rural England and other parties and persons.
- Document 8 - List of conditions suggested by the Council should permission be granted.
- Document 9 - Bundle of papers put in by the Council.

PLANS

- Plan A - Enforcement notices plan.
- Plan B - Sketch plan submitted by the Council showing the north-west part of the appeal site, originally drawn on 15 January 1988.
- Plan C - Cricklade and Purton local plan - proposals map.
- Plan D - Sketch plan submitted to the inquiry by Mr Cooper, showing drains, access track and section through the site.

PHOTOGRAPHS

- Photograph 1 - Ten pictures of the appeal site taken by the Council on 15 January 1988.

IMPORTANT -

**THIS COMMUNICATION AFFECTS
YOUR PROPERTY**

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

DX 34208 Fax (0249) 443152

tel: CHIPPENHAM (0249) 443322 ext:598 Miss R Hind

E

488B RH/HB

*North
Wiltshire*

**NORTH WILTSHIRE DISTRICT COUNCIL
Monkton Park, CHIPPENHAM, SN15 1ER**

Dear Sir/Madam,

21 July 1994

**NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990**

ENFORCEMENT NOTICE

Land at Braydon Lane, Chelworth, Cricklade, Swindon, 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 Notice.

Yours faithfully,

G.C. Betteridge
District Secretary

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED 5 September 1994

To:

Mr Bryan H Austen
Chelworth Manor
Chelworth Road
Cricklade
Wiltshire SN6 6HE

PLANNING DEPT	
22 JUL 1994	
PASSED TO	DATE REC.

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990
ENFORCEMENT NOTICE

Land at Braydon Lane, Chelworth, Cricklade, Swindon . . .

WHEREAS :

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 172 of the Town and Country Planning Act 1990 ("the Act") in this matter, that there has been a breach of planning control within the last ten years 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 172, for the reasons set out below.

NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to alleviate injury to amenity which has been caused by the said development within the period specified in respect of each step in that Schedule.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 175(4) of the Act, on 5 September 1994

ISSUED 21 July 1994-----

Signed

C. C. Betteridge

Monkton Park,
Chippenham, SN15 1ER

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land at Braydon Lane, Chelworth, Cricklade, Swindon, Wiltshire shown stipple-edged on the attached plan ("the Plan")

SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

The making of a material change in the use of the land from agricultural to a use for that purpose and, in addition, use for the parking of motor vehicles.

SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

To implement the following planting scheme:

- (a) Along the full length of the south-eastern boundary of the land marked "South Eastern Boundary" on the Plan:

Plant a 2 metre wide strip of a mixture of shrubs of the species and in the proportions listed in Schedule 4 below between the existing hedge and existing ditch so as to fill any gaps in the existing hedge; and a 2 metre wide strip of a mixture of trees of the species listed in Schedule 4 below, trees to be randomly planted along the length of hedge, not more than 5 and not less than 3 metres apart

- (b) In the south and west corners of the land marked "Southern Corner" and "Western Corner" on the Plan:

Plant an equal mixture of trees of the species and in the proportions listed in Schedule 4 below; the total number of trees to be planted in each corner shall not be less than 16, which shall be planted not more than 5 and not less than 3 metres apart

- (c) Along the full length of the south-western boundary of the land marked "South-Western Boundary" on the Plan:

Plant a mixture of shrubs of the species and in the proportions listed in Schedule 4 below so as to fill any gaps in the existing hedge; shrubs to be planted not more than 1 metre apart

- (d) Along the full length of the north-western boundary of the land marked "North-Western Boundary" on the Plan:

Plant an equal mixture of trees and shrubs of the species and in the proportions listed in Schedule 4 below so as to fill any gaps in the existing hedge; trees to be planted not more than 5 and not less than 3 metres apart and shrubs to be planted not more than 1 metre apart.

ALL WITHIN TWELVE MONTHS OF THIS NOTICE TAKING EFFECT.

SCHEDULE 4 - SPECIES AND PROPORTIONS OF TREES AND SHRUBS

TREES:	Alnus glutinosa	25%	SHRUBS:	Prunus cerasifera	5%
	Salix alba	25%		Ligustrum vulgare	10%
	Salix caprea	25%		Viburnum opulus	15%
	Populus tremula	25%		Salix Viminalis	15%
				Crataegus monogyna	40%
				Corylus avellana	10%
				Ilex aquifolium	5%

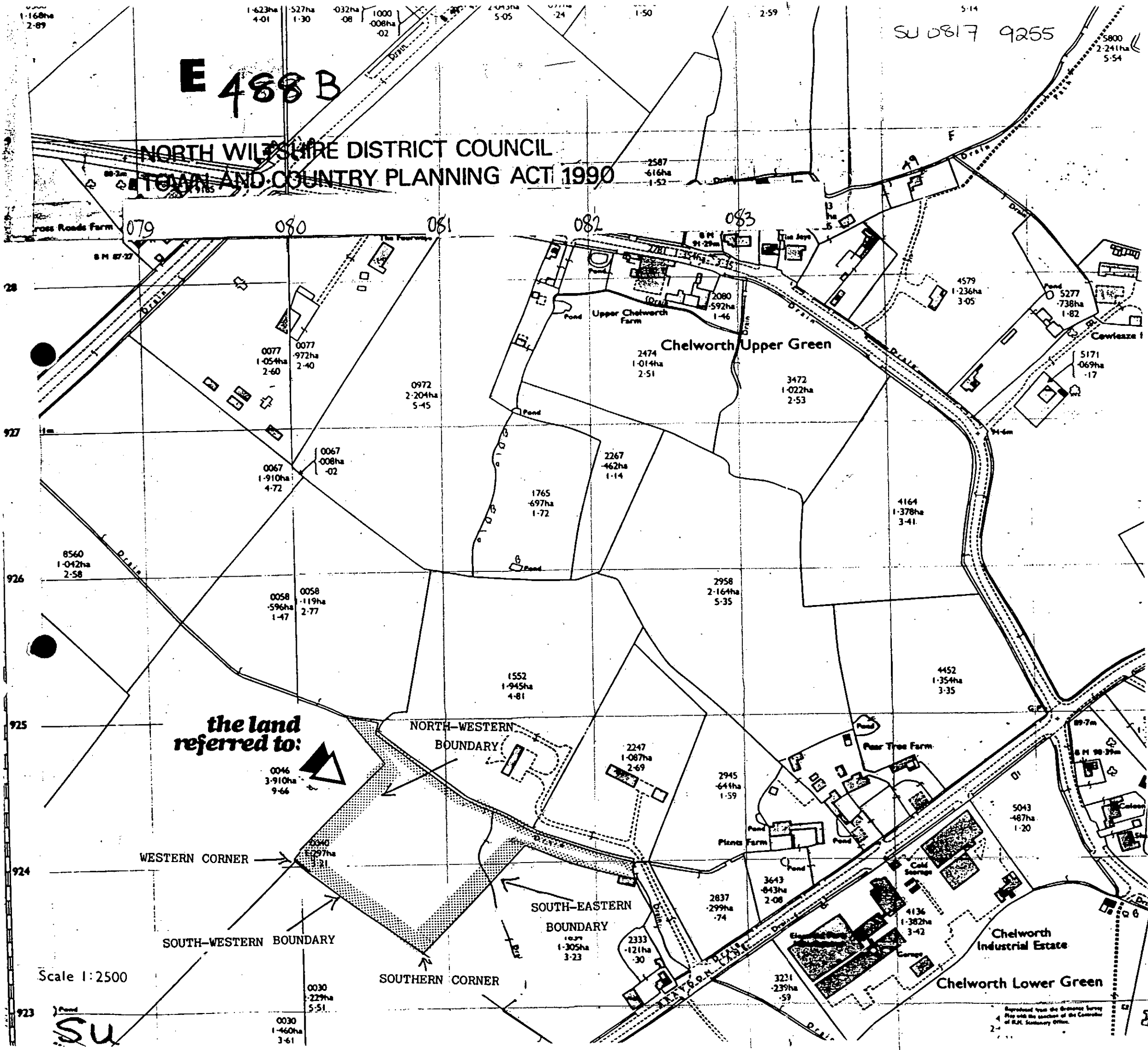
REASONS FOR ISSUE

The unauthorised hardstanding area which is being used for the parking of motor vehicles extends to some 1.2 hectares to the west of land which is used as Circus Winter Quarters. The area is not prominent from public rights of way or residential properties, with the exception of Gospeloak Farm, which lies approximately 200 metres to the north-west of the site. The site is surrounded by thick mature hedges, but in view of the size of the vehicles being parked on the site it is considered by the local planning authority that more effective wider tree planting would be advisable if the use of the land for vehicle parking is to continue.

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NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990

SU 0817 9255



the land referred to:

NORTH-WESTERN BOUNDARY

SOUTH-EASTERN BOUNDARY

WESTERN CORNER

SOUTH-WESTERN BOUNDARY

SOUTHERN CORNER

Scale 1:2500

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