

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 496

APPEAL yes no

Plan's Ref

ADDRESS

MARSHALL'S FARM
UPPER MARLBURY
MARLBURY
WILTS

BREACH of CONTROL

THE MAKING OF A MATERIAL CHANGE
IN THE USE OF THE LAND FROM USE
FOR THAT PURPOSE AND, IN ADDITION,
A CHANGE OF CONDITION USES INCLUDING
THE STORAGE AND SALE AND DISPLAY
OF VEHICLES OF MOTOR VEHICLES

Issuing Authority

Date Issued 5.2.88

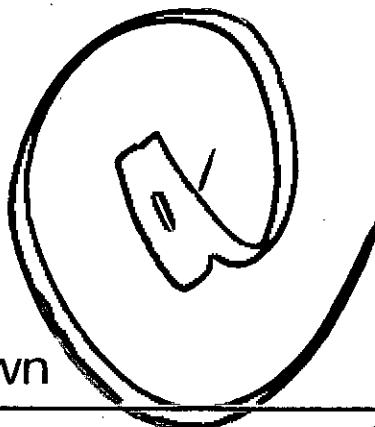
STOP NOTICES

Date Served

Date(s) served

Requiring

5.2.88



Takes effect 14.3.88

Date withdrawn

Compliance by 14.6.88

Dates Extended by
Secretary of State

appeal allowed
See attached Notice

REQUIREMENTS of ENFORCEMENT

- 1 TO CEASE THE SALE AND DISPLAY
FOR SALE OF MOTOR VEHICLES
- 2 TO PLANT AND MAINTAIN A HEDGE
AT THE ROAD FRONTAGE OF THE LAND
TO THE SATISFACTION OF THE LOCAL
PLANNING AUTHORITY.

ALL WITHIN 3 MONTHS OF THIS NOTICE BECOMING EFFECTIVE

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

THE
MUSEUM
OF
THE
CITY OF
NEW YORK
AND
THE
MUSEUM OF
THE
CITY OF
BOSTON

THE
MUSEUM
OF
THE
CITY OF
NEW YORK
AND
THE
MUSEUM OF
THE
CITY OF
BOSTON

Ray

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** 496

Enquiries to Mr McDonald

Your ref

5th February 1988

Dear Sir/Madam,

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

Mansells Farm, Upper Minety, Malmesbury, 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 **14th March 1988**

To:

Mrs. Joan Clarke
Mansells Farm
Oaksey Road
Minety
Malmesbury, Wilts.
SN16 9PT

Michael T. Clarke
Mansells Farm
Oaksey Road
Minety
Malmesbury, Wilts.
SN16 9PT

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

Reasons for issue:-

Use of the land for car sales constitutes an intrusive commercial use in a primarily rural location at the edge of the village to the detriment of visual amenity in particular and rural amenity in general.

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

Mansells Farm, Upper Minety, Malmesbury, Wilts.

WHEREAS :

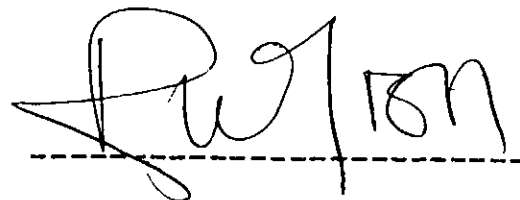
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises ("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 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 88(10) of the Act, on 14th March, 1988

ISSUED 5th February, 1988

Signed



Monkton Park,
Chippenham, SN15 1ER

SCHEDULE 1 Land or premises to which this notice relates

Land and buildings appurtenant to Mansells Farm, Oaksey Road, Upper Minety, Malmesbury, 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 that purpose and, in addition, a number of commercial uses including the repair and sale and display for sale of motor vehicles.

SCHEDULE 3 Steps required to be taken

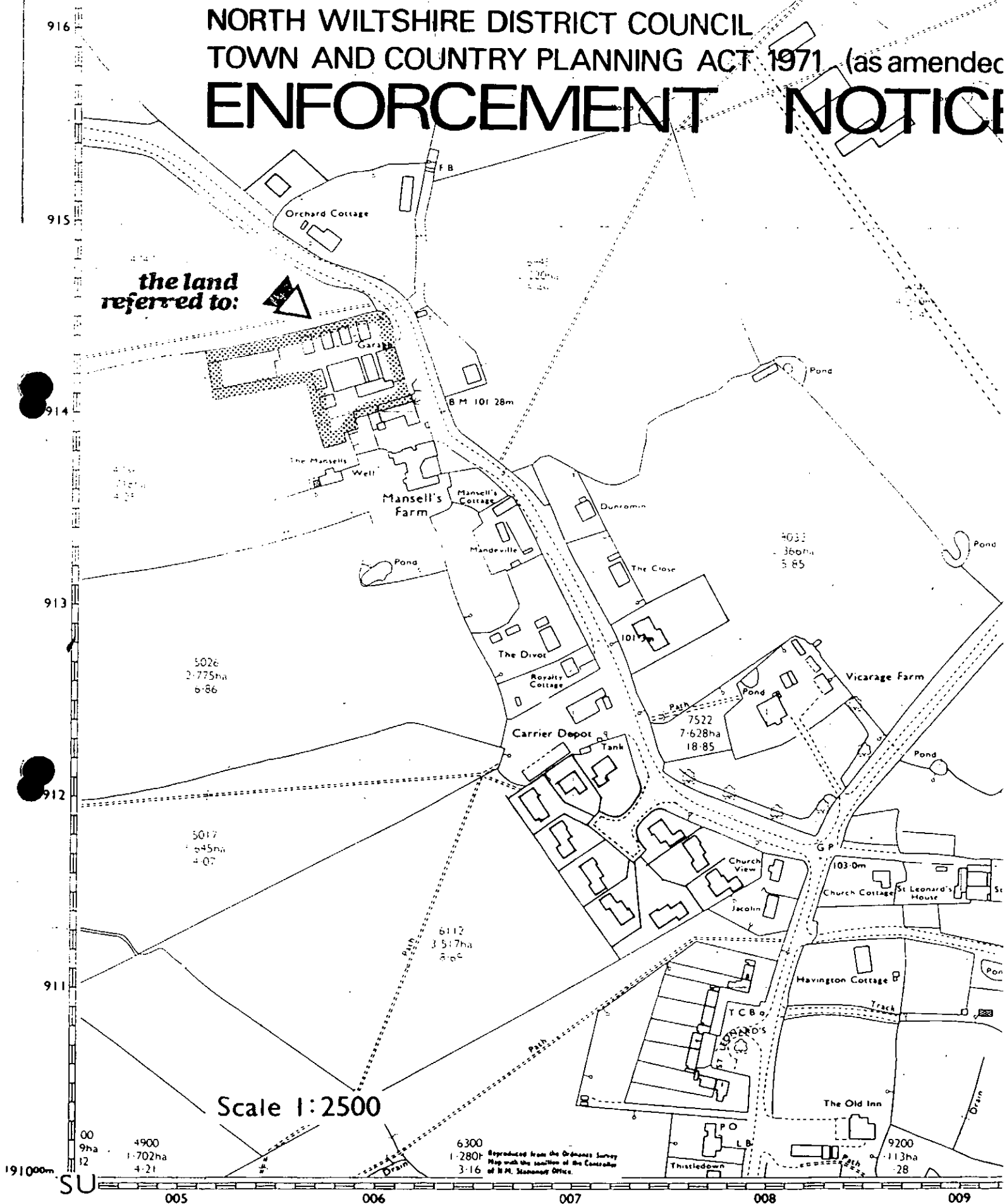
- (i) To cease the sale and display)
for sale of motor vehicles.)
- (ii) To plant and maintain a hedge)
at the road frontage of the)
land to the satisfaction of)
the local planning authority.)

**WITHIN THREE MONTHS
OF THIS NOTICE
BECOMING EFFECTIVE**

E 496

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

the land
referred to:





**Department of the Environment and
Department of Transport**

Common Services

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218 915

Switchboard 0272-218811

28 OCT 1988

Mr R A Gladden-Hawes
Royalty Cottage
Oaksey Road
UPPER MINETY
Wiltshire
SN16 9PY

NAV	SECRET
27 OCT 88	
REF	TO

Council ref

N/88/0689/ENF E496 and AD/985

Our reference

T/APP/C/88/J3910/000004/P6

Date

25 OCT 88

Sir

*appeal allowed
enforcement quashed.*

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9

LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981

APPEAL BY MR P CLARKE

LAND AT MANSELLS FARM, UPPER MINETY, MALMESBURY, WILTS

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against an enforcement notice issued by the North Wiltshire District Council concerning the above mentioned land. I held an inquiry into the appeal on 13 September 1988 and I inspected the site on the same day.

2. 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 that purpose and, in addition, a number of commercial uses including the repair and sale and display for sale of motor vehicles, without the grant of planning permission.

c. The requirements of the notice are (i) cease the sale and display for sale of motor vehicles, (ii) plant and maintain a hedge at the road frontage of the land to the satisfaction of the local planning authority.

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

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

3. The appeal site comprises a complex of buildings, yards, and access ways which was formerly used in connection with the agricultural operation of Mansells Farm. Mansells Farm has ceased to be an agricultural unit and none of the buildings in the complex is now in active agricultural use, although some of the buildings are used for the storage of agricultural equipment. It appears that new uses have been found for some of the buildings, which are all single storey sheds of various design and construction, including the renovation of specialist cars, the manufacture of kitchen and bedroom furniture, car repairs, and the sale and display for sale of motor vehicles.

4. At the date of the inquiry the manufacture of kitchen and bedroom furniture was not taking place on the site and was said by the appellant to have ceased. The renovation of specialist cars was however being carried out in some buildings on the appeal site.

5. The activities to which the council object are the sale and display for sale of motor vehicles and it appears to me that these activities, together with the repair of motor vehicles, represent the matter at issue in this appeal. All these activities are carried on in that northern part of the appeal site, comprising basically 4 small sheds and one large shed, which is owned and occupied by the appellant. The buildings on the southern part of the appeal site have no bearing on the alleged breach of planning control or the appeal. I therefore propose to exclude the southern part of the appeal site from the terms of the notice and I shall substitute a new enforcement notice plan to effect this. I also propose to correct the notice by omitting the somewhat vague reference to "a number of commercial uses" and by confining its terms to a specific alleged breach, namely the repair and sale and display for sale of motor vehicles.
6. Since the subject notice was issued, 3 events material to my consideration of the appeal have taken place. First, the council have granted planning permission on an application made by the appellant for change of use to car repairs of 2 of the small sheds and the large shed I mentioned earlier. Second, the council have refused a planning application for the change of use to car sales of an area of land in the north-eastern corner of the appeal site. Third, the council have issued an enforcement notice in broadly similar terms to the subject notice in respect of the sale and display for sale of motor vehicles on a piece of land adjoining Oaksey Road and contiguous with the north-east corner of the appeal site. That enforcement notice was not appealed against and took effect on 7 July 1988.
7. It would appear therefore that the council have no objection, in principle, to new uses being found for the redundant buildings on the appeal site, and indeed their attitude to new uses reflects local planning policy contained in the Structure and Draft Local Plans. The council's objections are to the car sales and from my inspection of the appeal site and its surroundings and from the representations made at the inquiry, and in writing, I consider the main issue in this case to be whether or not the display of motor vehicles for sale on the appeal site is harmful to the amenity of the locality.
8. Two aspects of amenity are relevant here, and these relate to visual effects and to the additional traffic movements generated by the car sales.
9. With regard to visual effects, the appeal site is located at the very edge of what could be described as ^{the} built-up area of Upper Minety, which itself is an outlying settlement of the village of Minety. To the west and north of the appeal site is open countryside while to the south and east is the mainly ribbon residential development, some of it widely spaced, along Oaksey Road. The cars displayed for sale on the site, 7 in number when I made my inspection, with the asking price on their windscreens and advertising displays on their roofs, are clearly visible as one approaches the site from the south. A bend in Oaksey Road and the roadside hedge screens the site from view as one approaches from the north. A low fence has been erected on the appeal site boundary in front of the displayed cars and along the fence fast growing conifers have recently been planted.
10. The display for sale of cars on the appeal site does represent, in my opinion, the introduction of a visually conspicuous commercial activity to this part of Oaksey Road. However, the cars displayed for sale on the appeal site, between the workshop and the road frontage, are well related to the complex of buildings and do not represent an intrusion into the countryside. In my opinion the display of cars for sale between the workshop building and the road frontage, which is roughly the area proposed by Mr Clarke in his application for planning permission, does not detract seriously from the visual amenity of the locality or the character of the countryside.

28 OCT 1983

11. As to traffic generation, I notice that the Highway Authority has no objections to the sale of cars at the appeal site. Mr Clarke says that on a good day, from the standpoint of his business that is, 5 callers would be attracted to the site to view the cars. While Oaksey Road is a quiet country lane with low traffic flow I do not consider that the likely additional vehicular movements generated by the car sales would have a significant impact on residents living along the lane. My conclusion is that the development the subject of the enforcement notice is not demonstrably harmful to the locality. The appeal on ground (a) will therefore succeed and planning permission will be granted on the deemed application.

12. To the grant of planning permission I propose to attach one condition. This will limit the display and sale of motor vehicles to the area between the road frontage and the existing building used for car repairs. I recognise that this condition will have commercial consequences in restricting expansion of Mr Clarke's car sales business. However, I am firmly of the view that to be acceptable, and not out of keeping in this rural location, commercial car sales must be appropriately small in scale.

13. The council have suggested that conditions should be imposed to make the grant of planning permission a temporary one and to secure the planting of an indigenous hedge along the road frontage. Mr Clarke says that he would not object to the planning permission being made personal to him. I do not propose to attach any of these conditions. The appellant says that he has been repairing cars and displaying them for sale on the appeal site for over 4 years and notwithstanding the nature of the construction of the buildings on the site I do not consider that a trial period is justified. As to the provision of a hedge, the appellant considers that it is very important for his displayed vehicles to be seen from Oaksey Road and that a hedge above 2 or 3 ft in height would obscure the cars from view. It seems to me that a high hedge would negate the benefit of a planning permission to display cars and a low hedge would be of little value. I therefore do not propose to attach a condition requiring the planting of a hedge. As to a possible personal permission, I am mindful of the advice contained in Circular 1/85. In this case there are no strong compassionate or personal grounds that would justify me restricting the grant of planning permission to Mr Clarke personally.

14. As the appeal is to succeed on ground (a) the appeal on grounds (g) and (h) does not fall to be considered.

15. I have taken account of all the other matters raised, including the matter of precedent, but none of them is sufficient to outweigh the considerations which have led me to my decision.

FORMAL DECISION

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

1. Substitute plan attached to this letter for the plan attached to the enforcement notice.
2. In Schedule 1 line 2 omit the word "stipple" and insert the words "heavy black" between "edged" and "on".
3. Delete the text of Schedule 2 and substitute:-

"The making of a material change in the use of the land from use for agriculture to use for that purpose and, in addition, the repair and sale and display for sale of motor vehicles".

Subject thereto I allow this appeal, direct that the enforcement notice be quashed and grant planning permission for change of use of land at Mansells Farm, Oaksey Road, Upper Minety from use for agriculture to use for that purpose and, in addition, the repair and sale and display for sale of motor vehicles on the application deemed to have been made under Section 88B(3) of the Act, subject to the condition that the display of motor vehicles for sale shall be restricted to the area shown hatched black on the plan attached to this letter.

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.

18. Attention is also drawn to the enclosed Note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

RIGHT OF APPEAL AGAINST DECISION

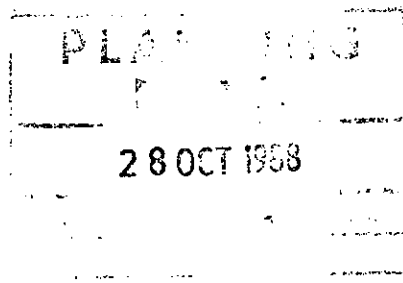
19. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

I am Sir
Your obedient Servant

Robert H Town

R H TOWN CEng MStructE MIHT
Inspector

ENC



Ref: T/APP/C/88/J3910/000004/P6

APPEARANCES

FOR THE APPELLANT

Mr R A Gladden-Hawes

- Royalty Cottage, Upper Minety.

Gave evidence and also
called:

Mr P Clarke

- The appellant.

FOR THE PLANNING AUTHORITY

Mr J F McDonald

- Principal Administrative Officer
with North Wiltshire District
Council.

Mr C Pescod DiPTP

- Planning Officer with North Wiltshire
District Council.

DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- Document 2 - Notification of the inquiry, dated 25 July 1988, and
distribution list.
- Document 3 - Letter dated 6 April 1988 from Mr Gladden-Hawes to NWDC.
- Document 4 - Letter dated 5 September 1988 from Mr P J Uzzell to PINS.
- Document 5 - Letter dated 5 September 1988 from Mr P Clarke to PINS.
- Document 6 - Letter dated 26 August 1988 from Minety Parish Council to PINS.
- Document 7 - Petition in support of Mr Clarke's appeal.
- Document 8 - Bundle of 5 letters in support of the appeal.

PLANS

- Plan A - The plan attached to the subject enforcement notice (on file).
- Plan B - Copy of the subject enforcement notice plan showing the appellant's
ownership of land.

E 496

28 OCT 1988

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

the land
referred to:

This is the plan referred to in my decision
letter (ref T/APP/C/88/J3910/0004/P6)

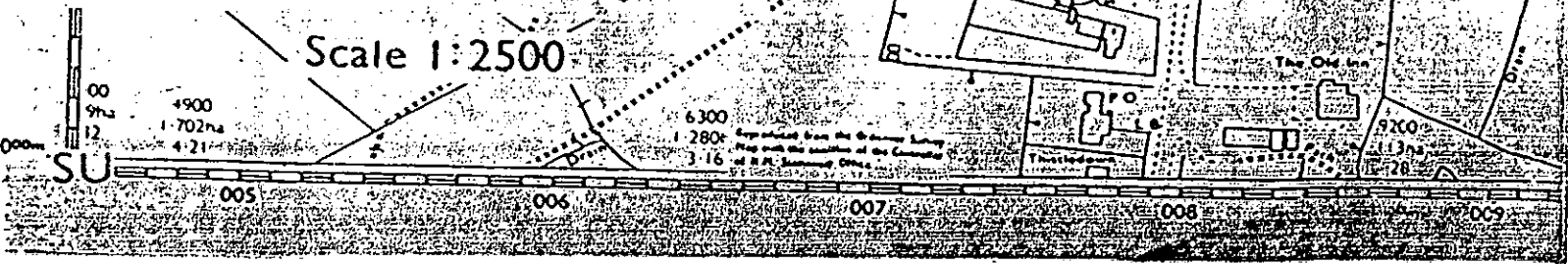
Date

25 OCT 88

R H Town Inspector
CEng MI Structe MIHT

Robert H Town

Scale 1:2500



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** 496

Enquiries to Mr McDonald

Your ref

5th February 1988

Dear Sir/Madam,

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TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

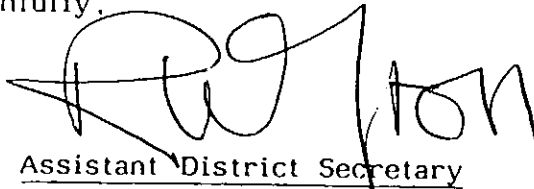
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There is a requirement on the Council to specify the reasons why the local planning authority consider it expedient to issue the Notice and these reasons are set out in the ANNEX overleaf.

Yours faithfully,


Assistant District Secretary

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED **14th March 1988**

To:

Mrs. Joan Clarke
Mansells Farm
Oaksey Road
Minety
Malmesbury, Wilts.
SN16 9PT

Michael T. Clarke
Mansells Farm
Oaksey Road
Minety
Malmesbury, Wilts.
SN16 9PT

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Reasons for issue:-

Use of the land for car sales constitutes an intrusive commercial use in a primarily rural location at the edge of the village to the detriment of visual amenity in particular and rural amenity in general.

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TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
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WHEREAS :

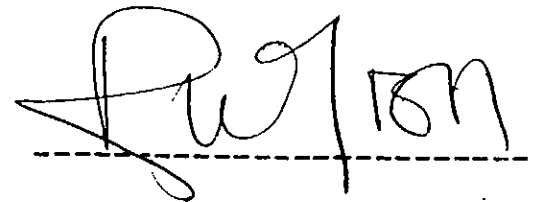
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NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to alleviate injury to amenity which has been caused by the said development within the period specified in respect of each step in that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

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 14th March, 1988

ISSUED 5th February, 1988

Signed



Monkton Park,
Chippenham, SN15 1ER

SCHEDULE 1 Land or premises to which this notice relates

Land and buildings appurtenant to Mansells Farm, Oaksey Road, Upper Minety, Malmesbury, 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 that purpose and, in addition, a number of commercial uses including the repair and sale and display for sale of motor vehicles.

SCHEDULE 3 Steps required to be taken

- (i) To cease the sale and display)
for sale of motor vehicles.)
- (ii) To plant and maintain a hedge)
at the road frontage of the)
land to the satisfaction of)
the local planning authority.)

**WITHIN THREE MONTHS
OF THIS NOTICE
BECOMING EFFECTIVE**

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

