

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 5		
APPEAL	yes	no
Plan's Ref <u>800 N/87/3082/01</u>		

ADDRESS

LAND AT WEST YATTON
YATTON KUYNSHALL
CHIPPENHAM.

BREACH of CONTROL

THE MAKING OF A MATERIAL CHANGE
IN THE USE OF THE LAND FROM A
FORMER ALLOTMENT HOLDING AND
TEMPORARY MOBILE HOME SITE (THE
SUBJECT OF A PERMISSION ON APPEAL EXPIRING
14 SEPTEMBER 1981) TO USE FOR TIME
STATIONING AND RESIDENTIAL OCCUPATION
OF A CARAVAN

Issuing Authority N.W.D.C.

Date Issued 21. 3. 86

STOP NOTICES

Date Served

Requiring



Date withdrawn

Date(s) served

21. 3. 86

Takes effect 1. 5. 86

Compliance by 1. 8. 86

Dates Extended by
Secretary of State

REQUIREMENTS of ENFORCEMENT

- (i) TO CEASE THE RESIDENTIAL USE OF
THE LAND
- (ii) TO REMOVE FROM THE LAND THE
S.A.D. CARAVAN

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

IMPORTANT -

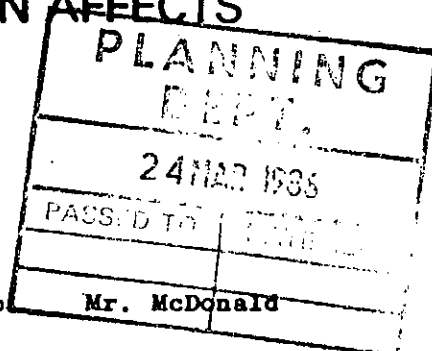
**THIS COMMUNICATION AFFECTS
YOUR PROPERTY**

District Secretary's Department



**North Wiltshire
District Council**

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



Our ref

E 5

Enquiries to

Mr. McDonald

Your ref

21st March, 1986.

Dear Sir/Madam,

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

LAND AT WEST YATTON, YATTON KEYNELL, CHIPPENHAM, WILTSHIRE

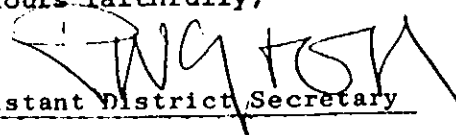
The Council have issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your interest in the land.

Unless an appeal is made to the Secretary of State, as described below, the Notice will take effect on the date shown in the box below and you must then ensure that the required steps for which you may be held responsible are taken within the period or periods specified in the Notice.

If you wish to appeal against the Notice, you should first read carefully the enclosed booklet entitled "Enforcement Notice Appeals - A Guide to Procedure". Then, you or your agent should complete the enclosed appeal form and send it, together with the extra copy of the Enforcement Notice enclosed herewith 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 - 1st May, 1986

To: Jane Small
The Caravan,
West Yatton,
Yatton Keynell,
Chippenham
Wilts
SN14 7EP

Mr. Small,
The Caravan,
West Yatton,
Yatton Keynell,
Chippenham
Wilts
SN14 7EP

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

Reasons for issue:

1. The siting of a caravan for residential purposes in this location is tantamount to the erection of a new dwelling in the countryside which is contrary to Policy H15 of the Western Wiltshire Structure Plan. This policy states that new dwellings in the countryside unrelated to any established village will not normally be permitted unless justified in connection with the needs of agriculture or forestry.
2. The development is contrary to Policy C4 of the Western Wiltshire Structure Plan which states that in Areas of Outstanding Natural Beauty, scenic qualities will be conserved by generally restricting the location, scale and type of development in the countryside to that essential to the rural economy or desirable for the enjoyment of its amenities.
3. The narrow winding roads leading to the site are inadequate and unsuitable to serve the development.

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

LAND AT WEST YATTON, YATTON KEYNELL, CHIPPENHAM, WILTSHIRE

WHEREAS :

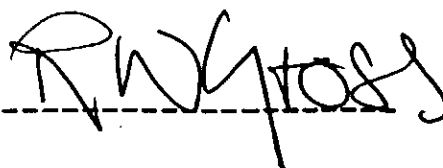
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises ("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 three 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 1st May, 1986.

ISSUED 21st March, 1986.

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this notice relates

Land at West Yatton, Yatton Keynell, Chippenham, Wiltshire shown stippled on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The making of a material change in the use of the land from a former allotment holding and temporary mobile home site (the subject of a permission on appeal expiring in September 1981) to use for the stationing and residential occupation of a caravan.

SCHEDULE 3 - Steps required to be taken

- (i) To cease the residential use of the land.
- (ii) To remove from the land the said caravan.

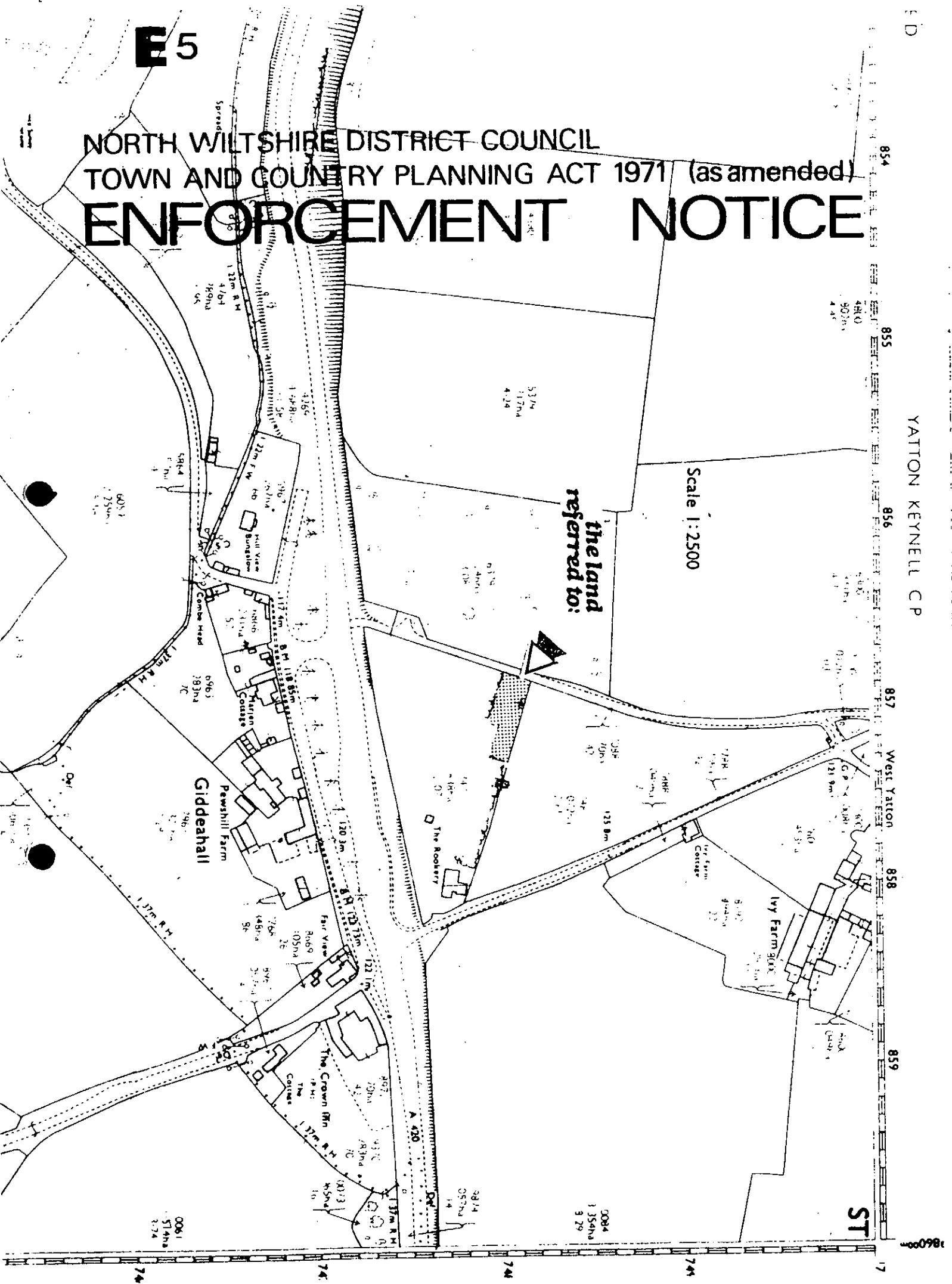
E5

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

YATTON KEYNELL CP

Scale 1:2500

the land
referred to:



Mrs J. Small



Department of the Environment and Department of Transport

Common Services

Room 1410 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 938

Switchboard 0272-218811

GTN 2074

Council ref: AD/DA/782, E5

Councillor Eric Hodges Esq
53 Longleaze
Wootton Bassett
SWINDON
SN4 8AP

PLANNING DEPT.	
24 JUN 1987	
PASSED TO	

Your reference

WGC 2

Our reference

T/APP/J3910/C/86/1614/P6

Date

3481/P6

19 JUN 87

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEALS BY MRS J SMALL
LAND AT WEST YATTON, YATTON KEYNELL, CHIPPENHAM, WILTSHIRE

5 + SA.

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeals. These appeals are against 2 enforcement notices issued by the North Wiltshire District Council concerning the above-mentioned land. I held an inquiry into the appeals on 14 and 15 April 1987. I inspected the site on 15 April 1987.

NOTICE A

2. a. The date of the notice is 21 March 1986.
- b. The breach of planning control alleged in the notice is the making of a material change in the use of the land, namely the change in use from a former allotment holding and temporary mobile home site (the subject of a permission on appeal expiring in September 1981) to use for the stationing and residential occupation of a caravan without the grant of planning permission.
- c. The requirements of the notice are:
 - i. to cease the residential use of the land;
 - ii. to remove from the land the said caravan.
- d. The period for compliance with the notice is three months.
- e. The appeal was made on the ground set out in Section 88(2)(a) of the 1971 Act as amended.

NOTICE B

3. a. The date of the notice is 4 August 1986.
- b. The breach of planning control alleged in the notice is failure to comply with the condition subject to which planning permission was granted.

c. The permission was granted on appeal on 6 September 1979 (Reference T/APP/5408/A/79/01689/G9) on application No. N78/0585/F, and was for a mobile home on land, part of field OS No. 255 Giddeahall, West Yatton, Wilts.

d. The condition which is alleged not to have been complied with is as follows:

"the use hereby permitted shall cease on or before 2 years from the date of this letter."

e. The requirements of the notice are:

- i. to cease the residential use of the land;
- ii. to remove from the land the said caravan.

f. The period for compliance with the notice is three months.

g. The appeal was made on the grounds set out in Section 80(2)(a) and (d) of the 1971 Act as amended.

4. It appears that Notice B was served by the council on the advice of the Department of the Environment that the terms of the allegation in Notice A were inappropriate. The 2 notices are thus before me in the alternative. Given the Department's advice and the council's action on it I propose to quash Notice A.

NOTICE B

The appeal on ground (d)

5. Although this ground was not withdrawn at the inquiry no evidence was led on it. Be that as it may it seems to me that (d) is not an appropriate ground of appeal in this case having regard to the breach of planning control alleged. Section 87(4) of the Town and Country Planning Act 1971 as amended describes the 4 specific kinds of breach of planning control to which the 4 year rule and hence ground (d) may relate. These 4 kinds of breach mainly relate to operational development and to the use of a building as a single dwellinghouse. They do not however include the use of land for the stationing of a caravan for residential purposes. Your client's appeal on ground (d) will therefore fail.

The appeal on ground (a) and the deemed planning application

6. From my inspection of the appeal site and its surroundings and from the representations made at the inquiry, and in writing, my opinion is that the principal issue in this case is whether or not the need for the appeal site to be used to accommodate a gypsy family outweighs the landscape and rural planning policy objections which might militate against unexceptional residential development in this locality.

7. The appeal site, from my observations, is situated in the open countryside. Although the site lies between, and fairly close to the small and loose-knit groups of buildings at West Yatton and Giddeahall I take the view that residential development of the site, whether by permanent building or caravan, would be effectively unrelated to those settlements. The nearest village, Yatton Keynell, is some 2 km across open countryside to the north.

8. In terms of local planning policy, contained in the Western Wiltshire Structure Plan, I am firmly of the view that residential development of the appeal site should

be considered in light of Policy H15 relating to the erection of new dwellings in the countryside, and not Policies H13 and H14 which relate to new dwellings within the framework or physical limits of villages. Policy H15 says that new dwellings in the countryside, unrelated to any established village, will not normally be permitted unless justified in connection with the needs of agriculture or forestry, and Policy H20 says that mobile homes, including residential caravans, will be treated in the same manner as permanent housing.

9. The scenic quality of the landscape hereabouts is recognised by its inclusion within the Cotswolds Area of Outstanding Natural Beauty (AONB). A review of the boundaries of the AONB is taking place at the moment and certain areas of land are proposed to be added to the AONB while other areas are proposed to be deleted. There are no proposals in the review to delete the locality of the appeal site and I do not share your opinion that this area is not one of Outstanding Natural Beauty. Local planning policy contained in the Western Wiltshire Structure Plan relating to the AONB appears to me to reinforce the restrictions on development in the countryside represented in the housing Policies H13, H14, H15 and H20.

10. As to the visual impact of your client's caravan on the landscape it appears to me that the appeal site occupies a prominent and elevated position relative to the A420 road and Giddeahall. The upper part of the caravan may be seen from some viewpoints near the A420 and also from viewpoints on the country lanes to the north of the site. Although there are trees and bushes along the boundaries of the site which afford some screening to the caravan, and to the site as a whole, I am of the opinion that the caravan represents a serious intrusion of urban development out of keeping with the attractive rural surroundings. Moreover I am not satisfied that additional planting would successfully mitigate the visual impact of the caravan.

11. I note that included within the planning history of the site are grants of planning permission, in 1959 and 1964, for a house on the site. These consents were not implemented. I also note that conditional planning permission was granted in 1972 for the tipping of builders' refuse within the area of woodland immediately adjacent to the appeal site. Tipping permitted by that consent still continues. You submit that these permissions support your client's case. With respect to the 1959 and 1964 permissions it seems to me that the planning circumstances then and now are materially different. Although in 1964 the appeal site appears to have been located within an area of special control under the then Control of Advertisements Regulations, the AONB and the associated restrictive development policies had not been established, nor were the pressures for development as intense as they are nowadays. As to the consent for tipping, this did not pre-date the establishment of the AONB but I do not find this development to represent a convincing precedent for allowing a wholly different kind of development on the appeal site.

12. A further feature of the planning history of the site is its use as a gypsy caravan site. There is no evidence of gypsy use before 1973. Mr Jesse Smith bought the site in 1973 and it appears that between then and 1980 he occupied the site for residential purposes, albeit somewhat intermittently. Mr Smith made 4 planning applications for the use of the site as a gypsy caravan site during that period. On the basis of this history I cannot accept your argument that the site has been a "stopping-off site" for many years or that it already has an "established use" by travellers. My conclusion is that in the absence of compelling agricultural, forestry or other special circumstances residential development of the appeal site would be unacceptable.

13. No agricultural or forestry justification is advanced and it seems to me that the special circumstances to be considered in this case relate to the provision and need for accommodation for gypsies.

14. The council's witness on gypsy matters accepts that Mr & Mrs Small and their family are clearly gypsies within the meaning of the Caravan Sites Act 1968. Mrs Smith was born near Corsham, has relatives at the Thingley Gypsy Site and although the 2 previous places she and her family stopped, namely Yate and Bath, are outside the county, I take the view that Mrs Small and her family are gypsies residing in or resorting to Wiltshire.

15. Local planning policy contained in the proposed to be altered Structure Plan states, at Policy H21, that special consideration will be given to both public and private provision for gypsy caravans as these have particular requirements. Explaining the justification for the policy the supporting text says that it is in order to maintain adequate site provision for gypsy caravans and retain the county's designation under the Caravan Sites Act 1968. The wording of this proposed policy has been amended from the corresponding policy in the approved Structure Plan to acknowledge, it is said, the provision of gypsy caravan sites by the private sector.

16. The Government also acknowledges the provision of gypsy sites by the private sector and it is recorded in Circular 57/78 that the Secretary of State agrees that it would be to everyone's advantage if as many gypsies as possible were enabled to find their own accommodation, rather than have to rely on local authorities to provide it at the public expense.

17. Circular 28/77 refers, among other things, to the consideration that should be given to the Development Plan in the assessment of the suitability of a site for gypsies. Paragraph 32 advises that it may be necessary in certain circumstances to accept the establishment of gypsy sites in Areas of Outstanding Natural Beauty particularly where they come close to urban fringes. The paragraph goes on to say that there will clearly be a special obligation to ensure that arguments in favour of a departure from the Development Plan are convincing. My interpretation of paragraph 32 is that the word "particularly" does not rule out the establishment of gypsy sites in AONB's which are not close to urban fringes.

18. With regard to the provision of gypsy caravan sites in Wiltshire, evidence is led that in the county there are 7 local authority sites, comprising 111 permanent pitches and 50 transit pitches, and 19 privately provided sites comprising 44 pitches. Facilities provided at the permanent local authority sites are said to compare with normal housing whereas facilities provided at the transit sites appear to be much more basic and reflect their purpose of providing a legal stopping place for gypsies travelling through the area. You submit that living conditions on the 2 transit sites in Wiltshire are very bad from the standpoint of public health but this is disputed by the council.

19. As to whether or not the supply of gypsy pitches in Wiltshire is sufficient for the need, you argue that there is serious under-provision of permanent pitches. On the other hand the council point out that the county has been designated by the Secretary of State and the Designation Order relating to the district of North Wiltshire came into effect on 24 February 1982. The council say that the designation provision is reviewed, by the County Council, every March and returns are sent regularly to the Department of the Environment. At the review in March 1986 the County Council proposed 4 new permanent pitches and these are now under construction and should be ready for occupation within the next 2 or 3 months. At the present time there are said to be no vacancies on the local authority permanent sites in the county but there are vacancies at the 2 transit sites.

20. Designation, it seems to me, does not rule out in principle the provision of new gypsy caravan sites in the particular designated area. However subject to review, designation indicates that the Secretary of State is satisfied that adequate provision has been made for the accommodation of gypsies residing in or resorting to the area. Evidence of unauthorised camping indicates that in January 1987 there

were 2 unauthorised gypsy sites in North Wiltshire with 2 caravans, and the figures for unauthorised caravans and families in Wiltshire as a whole were 14 and 13 respectively in July 1986. These figures for unauthorised sites appear to me to be low especially in comparison with the figures for authorised sites. Although I recognise that the enhanced powers to move gypsies on which designation confers may on the face of it disguise the true extent of the need for gypsy accommodation, I also note, from the evidence, that the enhanced powers are exercised humanely by the authorities in Wiltshire who say that gypsies who stop on an unauthorised site for a short period, and who cause no nuisance, are not harassed. I am firmly of the view that the general need for further gypsy accommodation is not of sufficient seriousness to outweigh the compelling rural policy and landscape objections against the establishment of gypsy accommodation on the appeal site.

21. As to Mrs Small's personal circumstances, while I recognise that her husband's health and her children's education are important considerations they do not in my opinion outweigh the objections to the establishment of a gypsy caravan site at the appeal site and the appeal on ground (a) therefore fails. Although ground (h) has not been pleaded I have considered the period for compliance. The 3 months period allowed in the notice is insufficient in my view for Mrs Small and her family to find a suitable new site. I propose to increase the period of compliance to 9 months.

22. I have taken account of the council's objections on highway grounds. While I recognise that the road approach to the site is not ideal being narrow and winding with poor visibility at some of the junctions, I do not consider that the access is so inadequate that it could not reasonably serve one residential unit. Notwithstanding my conclusion on the highways issue I take the view that the planning objections to the development are overriding and must prevail.

23. All of the other matters raised have been taken into account by me, including the development permitted by the council at Bassett Down House, but none of them is sufficient to outweigh the considerations which have led me to my decision.

FORMAL DECISION

NOTICE A

24. For the above reasons and in exercise of the powers transferred to me I hereby allow your client's appeal and direct that Notice A be quashed. *Appeal allowed*

NOTICE B

25. For the above reasons and in exercise of the powers transferred to me I hereby direct that Notice B be varied in the paragraph beginning NOTICE IS HEREBY GIVEN by the deletion from line 3 of the word "three" and the substitution therefor of the word "nine". Subject thereto I hereby dismiss your client's appeal, uphold the notice and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the 1971 Act. *Appeal dismissed*

RIGHT OF APPEAL AGAINST DECISION

26. 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

Robert H Town

R H TOWN CEng MISTructE MIHT
Inspector

APPEARANCES

FOR THE APPELLANT

Councillor Eric Hodges

- Chairman of the Wiltshire Gypsy Council and member of North Wiltshire District Council.

Gave evidence and also called:

Mrs S J Small

- the Appellant, Quarry Piece, West Yatton.

Mr M Small

- the Appellant's husband, Quarry Piece, West Yatton.

Mr P Lee

- Traveller.

Mrs S Lee

- Traveller.

FOR THE PLANNING AUTHORITY

Mr J F McDonald

- Principal Administrative Officer with North Wiltshire District Council.

He called:

Mr N J Durnford MRSH MRIPHH
MIEH

- Senior Public Health Inspector with Wiltshire County Council.

Mr N H Minty

- Ivy Farm, West Yatton, Chippenham.

Mr T P Geering

- Assistant Engineer with Wiltshire County Council.

Miss J E Tempest BA(Hons)
MRTPI

- Principal Planning Officer with North Wiltshire District Council.

FOR THE YATTON KEYNELL PARISH COUNCIL

Mr E K Phelps

- Chairman, The Post Office, Yatton Keynell.

INTERESTED PERSONS

Mr T M Stokoe

- The Rookery, Giddeahall, Chippenham.

Mr H D Linnell

- Fair View, Giddeahall, Chippenham.

Mrs R Stokoe

- The Rookery, Giddeahall, Chippenham.

Mr A Lovell

- The Cottage, Giddeahall, Chippenham.

Mr S Raubenheimer

- The Parkfield, Staffords Farm, Pickwick, Corsham.

DOCUMENTS

- Document 1 - Lists of persons present at the inquiry.
- Document 2 - Notification of the inquiry, and distribution list, dated 16 February 1987.
- Document 3 - Four letters of representation from local residents.
- Document 4 - Appendices to Mr Hodges' proof of evidence.
- Document 5 - The North Wilts Gypsy Council - Constitution.
- Document 6 - Wiltshire Gypsy Council - special report August 1978.
- Document 7 - Bundle of documents relating to erection of dwelling at Bassett Down.
- Document 8 - Petition in support of the appeal.
- Document 9 - Wiltshire Romany Number and Colouring Books.
- Document 10 - Bundle of documents containing; United Nations Universal Declaration of Human Rights, letter dated 26 February 1987 from the Home Office to the Travellers Support Groups, letter dated 10 April 1987 from Mr M Cansdale to Mr M Small, letter dated August 1978 from the Wilts Gypsy Council to the Regional Administrator Wessex RHA, letter dated 30 September 1985 from Wilts Gypsy Council to the Swindon and District Community Health Council with appended newspaper report extracts, letter dated 21 July 1986 from Swindon and District Community Health Council to the Chief Executive of Wiltshire County Council, and Wiltshire Family Practitioner Committee - Annual Programme 1986/87.
- Document 11 - Appendices to Miss Tempest's proof of evidence.
- Document 12 - Report of the Chief Technical Officer North Wiltshire District Council regarding proposed enforcement proceedings against Mr Jesse Smith.
- Document 13 - Planning permission dated 30 November 1972 in respect of tipping site for builders' refuse at West Yatton.
- Document 14 - Cotswold AONB - Review of boundaries September 1986.
- Document 15 - Judgement in the case of Miller-Mead v MHLG and Another (1962).

PLANS

- Plan A - The plan attached to the enforcement notices (on file).
- Plan B - Copy of the above indicating the extent of Mr T Stokoe's land.

PHOTOGRAPHS

- Photos 1 to 14 inclusive - Various views of the appeal site before and after Mrs Small moved onto it.