

ENFORCEMENT REGISTER INFORMATION SHEET

18-4-88 Noted *guc*

E/ 500		
APPEAL	yes	<input checked="" type="checkbox"/>
Plan's Ref N/88/1712/ENR		

ADDRESS

LAND AT POON CORNER
STANTON LANE.
KINGTON ST MICHAEL

BREACH of CONTROL

THE MATERIAL CHANGED IN THE USE
OF THE LAND FROM AGRICULTURAL
TO A USE FOR THAT PURPOSE AND,
IN ADDITION, THE LOCATION OF
AND RESIDENTIAL OCCUPATION OF
CARAVANS AND THE STATIONING OF
MOTOR VEHICLES AND SCRAP MATERIALS

Issuing Authority NWDC

Date Issued 15.4.88

STOP NOTICES

Date Served

Requiring



Date(s) served

15.4.88

Takes effect 30.5.88

Compliance by 30.7.88

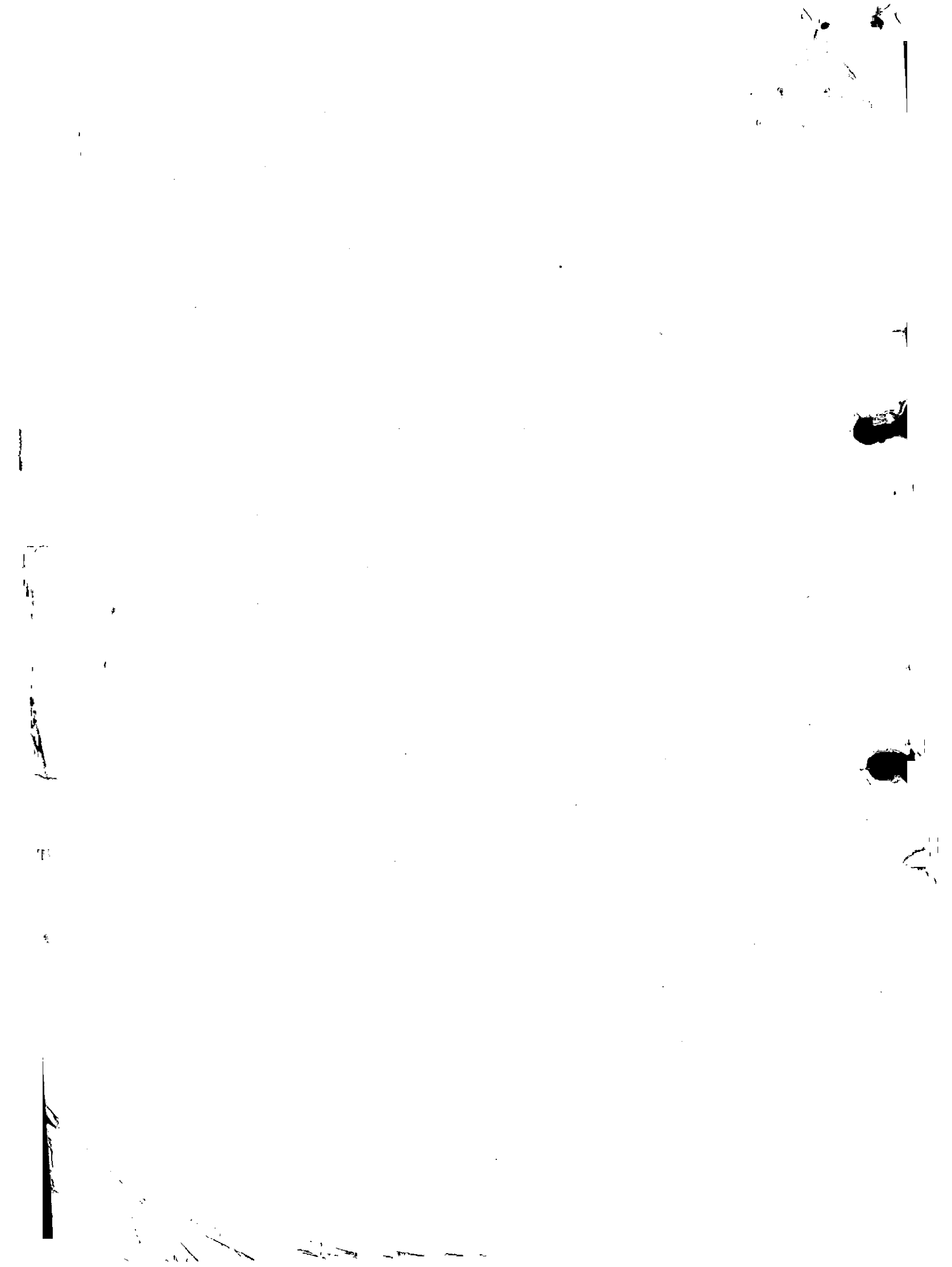
Dates Extended by
Secretary of State

Date withdrawn

REQUIREMENTS of ENFORCEMENT

- (i) TO CHANGE THE RESIDENTIAL USE OF THE LAND
- (ii) TO REMOVE THE SAID CARAVANS
- (iii) TO REMOVE THE SAID MOTOR VEHICLES
- (iv) TO REMOVE THE SAID SCRAP MATERIALS

EXTENT to WHICH NOTICE COMPLIED WITH (dates)
Appeal dismissed - Enforcement upheld



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** 500

Enquires to Mr McDonald

Your ref

15th April, 1988

Dear Sir/Madam,

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

Land at Pooh Corner, Stanton Lane, Kington St. Michael, Chippenham, Wilts.

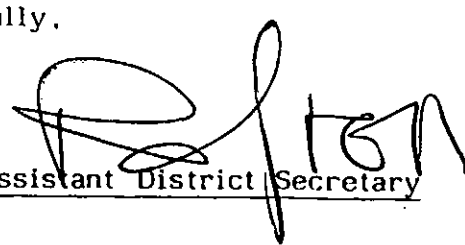
The Council have issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your interest in the land. Unless an appeal is made to the Secretary of State as described below, the Notice will take effect on the date shown in the box below and you must 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 **30th May, 1988**


Assistant District Secretary

To: Claire Lawson, Mark Wilson, Danny Lawson, Julian Lawson,
Christopher Liengard and Max Margetts all at :-
Caravans
Pooh Corner
Stanton Lane
Kington St. Michael
Chippenham, Wiltshire

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

Reasons for issue:-

1. Mobile Homes, including residential caravans are treated in the same manner as permanent housing and subject to the same controls (Policy H20, Western Wiltshire Structure Plan, 1981).
2. The location of a caravan or caravans on the land is interpreted as a new separate residential use in an area taken to be countryside and outside any defined settlement.
3. The location of a caravan or caravans on the land represents a visually and inappropriate form of development which harms visual amenity within pleasant countryside.

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

Land at Pooh Corner, Stanton Lane, Kington St. Michael, Chippenham, Wilts.

WHEREAS :

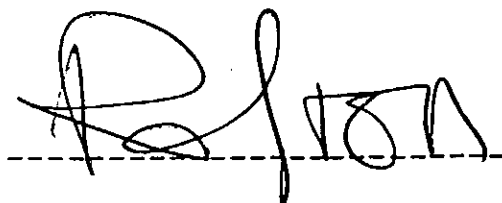
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises ("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 TWO 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 30th May 1988

ISSUED 15th April, 1988

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

E500

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land known as Pooh Corner, Stanton Lane, Kington St. Michael, Chippenham, Wiltshire shown stipple-edged on the attached plan.

SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

The material change in the use of the land from agricultural to a use for that purpose and, in addition, the location of and residential occupation of caravans and the stationing of motor vehicles and scrap material.

SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- (i) To cease the residential use of the land.
- (ii) To remove the said caravans.
- (iii) To remove the said motor vehicles
- (iv) To remove the said scrap material.

SCALE 1:10 000

E500**E500**Stanton
St Quintin

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

Upper Swinley Farm

Springfield Farm

Orchard Cottage

Swinley Wicthy Bad

Ford

Ford

101/2
58/2
286154/2
413/2
2191938
1-677-a
4-14

**the land
referred to:**

2736
810ha
7001527
912ha
100

Scale 1:2500

Kington
St Michael

Manor House

Manor House

Manor House

Manor House

Manor House



DEPARTMENT OF THE ENVIRONMENT

Room TX 311

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218

Switchboard 0272-218811

GTN 2074

614

NW	DISTRICT SECRETARY'S
	02. MAY 89
REF. TO	

Council's Reference: AD/1019

Messrs Bobbetts Mackan
Solicitors
20A Berkeley Square
Clifton
BRISTOL
BS1 1HP

PLANNING
02 MAY 1989
PASSED

Your reference

BC/DD/14066

Our reference

APP/C/88/J3910/14

Date

28 APR 89

E500

*Appeal dismissed
Enforcement Upheld.*

N/88/1112/ENF

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971: SECTION 88
LAND AT POOH CORNER, STANTON LANE, KINGTON ST MICHAEL
APPEAL BY MISS CLAIR LAWSON

1. I am directed by the Secretary of State for the Environment to refer to the report of the Inspector, Mr P W Robinson, who held a local inquiry on 24 and 30 January 1989 into your client's appeal against an enforcement notice issued by the North Wiltshire District Council relating to the use of land at Pooh Corner, Stanton Lane, Kington St Michael, for the location of and residential occupation of caravans and the stationing of motor vehicles and scrap material.
2. The appeal against the enforcement notice was on the grounds set out in Section 88(2)(a) of the Town and Country Planning Act 1971, as amended by the Local Government and Planning (Amendment) Act 1981.
3. A copy of the Inspector's report of the inquiry is annexed to this letter. His conclusions are set out in paragraphs 33 to 37 and his recommendation at paragraph 38 of the report. The report has been considered.

SUMMARY OF THE DECISION

4. The formal decision is set out in paragraph 6 below. The appeal fails; the enforcement notice is being upheld and no planning permission is being granted.

REASONS FOR THE DECISION

5. Although your client's appeal was only made on ground (a), which relates to planning merits, a legal issue was raised at the inquiry as to whether your client was a gypsy within the meaning of Section 16 of the Caravan Sites Act 1968 and was therefore a person to whom the planning policies relating to gypsies should apply. In the event the Secretary of State does not find it necessary to express a view on this point. The Inspector has found as a fact, which is accepted, that there are currently vacancies on council owned gypsy sites in the area. He concluded that, if your client were to be regarded as a gypsy, there was no justification for making an exception to the planning policies for the area in this case. The Inspector went on to say that the appeal should fail on grounds of planning policy,



site suitability and highway factors. These conclusions are accepted. It is considered that these conclusions apply whether or not your client is a gypsy by statutory definition, and the appeal must therefore fail on ground (a) and the notice be upheld.

FORMAL DECISION

6. For the reasons given above the Secretary of State upholds the notice and dismisses the appeal. On the application deemed to have been made under Section 88B(3) of the 1971 Act, as amended by the Act of 1981, he refuses to grant planning permission for the use to which the notice relates.

RIGHT OF APPEAL AGAINST DECISION

7. This letter is issued as the Secretary of State's determination of the appeal. The leaflet C enclosed for those concerned sets out the rights of appeal to the High Court against the decision and also includes a note about the right to view the documents appended to the Inspector's report.

I am Gentlemen
Your obedient Servant

P. E. Stalder

P E STALDER
Authorised by the Secretary of State
to sign in that behalf

NORTH WILTSHIRE DISTRICT COUNCIL

APPEAL BY

MISS CLAIR LAWSON

Inspector: P W Robinson.
Dates of Inquiry: 24 and 30 January 1989.
File No: APP/C/88/J3910/14.

Tollgate House
Houlton Street
BRISTOL
BS2 9DJ

February 1989.

To the Right Honourable Nicholas Ridley MP
Secretary of State for the Environment

Sir

I have the honour to report that on 24 and 30 January 1989, I held an inquiry at the Council Offices, Chippenham into an appeal by Miss Clair Lawson under Section 88 of the Town and Country Planning Act 1971 as amended, against an enforcement notice issued by the North Wiltshire District Council. The site is at Pooh Corner, Stanton Lane, Kington St Michael.

1. a. The date of the notice is 15 April 1988.

 b. The breach of planning control alleged in the notice is the material change in the use of the land from agricultural to a use for that purpose and, in addition, the location of and residential occupation of caravans and the stationing of motor vehicles and scrap material.

 c. The requirements of the notice are (i) to cease the residential use of the land, (ii) to remove the said caravans, (iii) to remove the said motor vehicles, (iv) to remove the said scrap material.

 d. The period for compliance with the notice is 2 months.

 e. The appeal was made on the grounds set out in Section 88(2)(a) of the 1971 Act as amended.
2. This report includes a description of the appeal site and the surrounding area, the gist of the representations made at the inquiry, and my conclusions and recommendations. Lists of appearances, documents, plans and photographs are attached.
3. The evidence was not taken on oath.

THE SITE AND SURROUNDINGS

4. The site is a triangular field about 0.54km north of the village of Kington St. Michael, (plans A and C), itself about 3.22km north of Chippenham. It lies in open country surrounded by land apparently all in agricultural use; in particular, to the east and north I saw sheep grazing. The field is mostly flat but falls away to the north. It is surrounded by hedges which are augmented by stockproof fences around the southern part of the site on which the caravans are placed, and a similar fence divides the site in two, leaving the northern part for grazing horses, 3 at the time of my visit. At that time also, there were 9 caravans of the smaller touring type, one wooden gypsy caravan without wheels, and 9 cars, lorries and vans, (see photos). One of the small lorries contained what seemed to me to be scrap metal, certainly not motor parts or accessories. A lorry chassis was parked close by. In the field were also 2 wooden huts, and another small hut used as a toilet, which

incorporated a cesspit, (photo 11). The larger of the 2 huts, made up of a series of different sizes of wooden compartments, (photo 10), contained a motorbicycle, some hay, and some stored scrap material, and one compartment was empty. Beside this hut was a van body, without it's chassis, containing stored material. A smaller hut, with an open end, contained a small van. All three huts, the 9 caravans, and 4 of the vehicles were in the southeast corner of the site, and the other 5 vehicles were near to the southwest corner. There are two access points, each off Nash Lane, one in the southeast, (photo 1), and one in the southwest of the site.

5. I was told that the caravans were owned and/or occupied by Clair Lawson and Mark Wilson, Julian Lawson, Ross McPhie, Jody Smith, Lily Smith, and Iesha Smith. One caravan was occupied by someone not identified at the site visit.

6. Along the west side of the site runs Stanton Lane, a Class III County highway, and along the south side is a bridleway, a rough unsurfaced track, known as Nash Lane, (see document 10). There is a public footpath along the east of the site, just inside the boundary hedge and separated from the main part of the site by the fence. The site is clearly visible from the village of Kington St Michael, across the fields, and the road winds past the site in such a way that at the junction with Nash Lane the visibility to the right, the north, is very limited indeed.

THE STATUS OF THE APPELLANT AND OTHER OCCUPIERS OF THE SITE

7. It was conceded by the appellant's advocate during the inquiry that the issue turned on the question of the status of the appellant, and whether she was a gypsy as defined by Section 16 of the Caravan Sites Act 1968. I therefore deal with this subject separately from the planning matters and other issues raised, such as the need for sites. The persons resident on the appeal site have varied in number and identity since the council had knowledge of the alleged use, and I therefore set out, as far as the information was available to me, the history of the individuals the council say have been on the site over the recent past, and also of the individuals said to be the intended residents should this appeal succeed. The histories are derived from the accounts given at the inquiry, and not disputed. The County Council do not regard any of these persons as gypsies as defined by Section 16, nor do the National Gypsy Council or the Romany Rights Association.

8. Miss Clair Lawson. Miss Lawson is 24 years of age and she co-habits with Mark Wilson. She has a son nearly 3 years old. Until May 1985 she lived with her 2 brothers in the family home in Nailsworth, Gloucestershire, which she had done since her parents separated. She went to school in Gloucestershire. She met Mark Wilson when he parked his caravan in a layby opposite her house at about the end of 1984 and after that time the couple lived in the caravan or the house alternatively, or in other caravans in the group of travellers with Mark. When she became pregnant she moved permanently in with Mark and started to travel with him. After her son was born in February 1986, they moved to a wood in Chalford, Gloucestershire where they stayed until June. Next they stayed at Edge Common, Stroud for a short while, Glastonbury for 2 weeks, then Stroud again. They moved around Gloucester, Avon and Wiltshire until her brother Julian, who was still living in the house, sold it and raised enough money to buy the appeal site in 1986. He moved on to the site in October 1986 and Miss Lawson moved there in December. She earns her living leatherworking and doing other craft work, as well as painting old tractor seats. The products of her work are sold at craft fairs around the country, to which she and Mark travel in the summer and autumn months. She is a member of the British Romany Union having been accepted by them as the wife of Mark Wilson, (document 12).

9. Mark Wilson. He is 27 and went to school "all over" including Canada and Somerset. Although his parents lived in a house, past generations of his family were travellers. He lived with his parents until 1979 when he chose a nomadic way of life, and joined a group of travellers touring England and Wales giving free concerts for charity. He also stayed on established caravan sites and in a squat in London. This went on till 1984, when he joined various groups visiting fairs and traveller's meetings, and seeking seasonal work. In May and June 1984 he lived near Salisbury and then in the Nailsworth area. After this he went to Vinegar Hill, Gloucestershire, but had meanwhile met Miss Lawson. Mr Wilson is a dealer in cars, lorries, caravans, and horses. He also sells parts for vintage cars at rallies during the summer. He is a member of the British Romany Union.
10. Ross McPhie. He is 23 and has been travelling for a long time, possibly all his life, on the west coast of Scotland and, since he was 15, in England. He does not claim to be a gypsy. First he lived in Yorkshire, then for a year on the A40 near London, then he moved around the West country and Wales. He has lived on sites in the Bristol area for over a year and moved to the appeal site in April 1988. He works at vehicle restoring and painting, and is skilled at a whole range of building tasks. He visits fairs and goes fruit picking regularly in Kent.
11. Jennifer Wilson. Miss Wilson is Mark's sister and has been travelling for 7 years. She lives with McPhie and has a 3 year old son. She does not claim to be a gypsy. Her travelling has apparently been done mostly in the counties of Wiltshire, Somerset, Avon, and Gloucester, where she attends fairs and other gatherings of travellers. She makes herbal medicines and cosmetic creams, and she is a musician.
12. Lily Smith. Mrs Smith married a traveller 20 years ago and has since travelled with or without him throughout the United Kingdom, recently in Avon and Wiltshire. Most of the year is spent in the Evesham fruit growing region, but during the winter months, she sells bric-a-brac which she has acquired through the year in various markets, including one or two in Bath. She met Mark and Clair in May 1988 and moved to Pooh Corner then with her son Jody, aged 15.
13. Iesha Smith. Iesha is Lily Smith's daughter and she has travelled all her life. She lives with Leroy Jones and says she is a gypsy. She earns her living fruit-picking throughout most of the year, and in the off season the couple rely on Leroy doing odd jobs in the area in which they are staying. In the last 2 years, for example, she has stayed mostly in East Anglia and the Home Counties, but has never stayed in Wiltshire. She came to live at Pooh Corner after her mother, Lily Smith moved there.
14. These 6 people are those who are said to be the intended occupiers of the site if the appeal succeeds and permission is granted, plus Leroy Jones who did not give evidence of his background. Another person who has lived on the site, and who gave evidence is Min Kent. She has been travelling with her husband since 1978 in the west, the south and, for the last 6 months, the midland regions of England doing various types of work including fruit picking, selling on market stalls, and operating fairground games stalls. She has been at Pooh Corner since just before Christmas 1988.
15. I go on now to give the cases for and against the appeal by Miss Lawson.

THE CASE FOR THE APPELLANT

The material points were:

16. The appellant is a gypsy as defined by Section 16 of the 1968 Act, although that definition has not been clarified in the Courts until recently. In December 1988, the High Court made a declaration that a person who had claimed to have travelled in a caravan since 1981 was a gypsy as defined by Section 16, (see document 7). The other initial occupiers of the site, should this appeal succeed, would all be gypsies, or living with gypsies, by the same definition. All are persons of a nomadic way of life, and Circular 28/77 and the Cripps Report, (document 4), are quoted to support the opinion that this does not imply that they have to be of any particular race or origin.

17. The local authority have a duty to make provision for gypsies in their area, and although the twice yearly counts show that most gypsies are accommodated on authorised sites, the surveys do not take account of all the gypsies present in the county at the time the counts are made, possibly because, it is suggested, a low count puts less pressure on the need for increased provision. For instance, the occupiers of Pooh Corner have never been counted. The county's officer responsible for gypsy matters, Mr Durnford, had ignored the court decisions in the two cases quoted concerning the definition of "gypsy", those of Rexworthy and of Capstick, (documents 5 and 7). It is submitted, therefore, that the designation status of the county is based on inaccurate statistics.

18. The site is appropriate for its use as a gypsy caravan site. Water is available, and a cesspit has been constructed and would be improved if this appeal succeeds. Mains electricity is not required as the fuel is bottled gas and electricity from car batteries. Hardstandings will be provided for the pitches, (see plan E). The site is close to 2 villages and Chippenham is only 6.5km away. Shops, schools and medical facilities are no further away than is the case with many rural dwellings. The site is sufficiently remote from other housing to obviate objections to the presence of gypsies. No-one previously objected to the sheds and caravans on the site before the appellant moved on. The pitches are, and will remain, in the southeast corner of the site, alongside the sheds, and will be screened by trees. There will be no view of the encampment from afar.

19. It is accepted that Stanton Lane is a winding and narrow road, but it is adequate for its volume of traffic and is used by buses and many other vehicles. Visibility at the Nash Lane junction could be improved by cutting off a splay from the corner of the site. The access close to this junction could also be closed to improve the conditions on the highway.

20. The appellant's brother Julian bought the site in 1986 as a base on which to live during the months October to April, when they were not travelling. Miss Lawson and Mr Wilson need a settled and stable period in which to build up stocks of their various craft works in readiness for the selling season, from late spring to autumn. They also use the base during the summer from time to time. Julian no longer lives on the site, having decided that the way of life was not for him. As the result of a discussion with a council officer, Miss Lawson's father made, on their behalf, a planning application for a bungalow on the site, this to be ostensibly used as their base. They, however, did not intend to live in the bungalow even if it were permitted, which it was not. During the time they have lived on the site, some 30 families have also stayed on the site, for between 2 days and 2 months, never more than 6 caravans being there at any one time.

21.. The appellant's intention is to construct 4 pitches on the site in 2 pairs, each pair with a toilet block, (plan E). The pitches would be screened by trees and the rest of the southern section of the site paved over for the vehicles. The northern portion of the site would be, as now, used to graze the horses Mark has in his business of horse-dealing. The 4 pitches would be initially occupied as set out above. Each would hold 2 caravans and 2 vehicles. There would be no scrap metal kept on the site, and a condition to that effect is acceptable. The other conditions suggested by the council are also acceptable.

THE CASE FOR THE LOCAL PLANNING AUTHORITY

The material points were:

22. Wiltshire County Council has provided 7 gypsy caravan sites with 165 pitches, and in addition there are 53 pitches on 21 private sites, (see document 18). The county was designated in two sections, on 24 February 1982 and 14 October 1983. The situation is reviewed each year for the purpose of deciding the need for further accommodation. 8 new pitches are programmed to be provided at Thingley in the next 3 years, (document 13). In July 1987 there were 214 caravans on the 218 authorised sites, and 27 on unauthorised sites, these being the maximum numbers recorded between July 1986 and July 1988. At present accommodation could be made available for the appellant on the permanent sites at Hay Lane and Thingley, and there are vacancies on the transit sites at Odstock and at Chiseldon. Since the time that the council became aware that the site had become occupied, there have been several changes in the list of persons on the site and wishing to remain there. Currently the list is as given above, and in the council's opinion, neither Miss Lawson nor Mark Wilson are gypsies. The status of the other occupiers is difficult to determine with certainty, but as far as can be established, none are gypsies. At the time of the second designation order, which covered the Salisbury area, Mark Wilson was illegally encamped in that locality, one of many such people, and he was not then regarded as a gypsy, despite legal submissions made on behalf of the illegal campers.

23. The council submit that the 1968 Act was not intended to provide for persons such as these "New Age Travellers", and that if it were taken to be so, that would lead to a substantial increase in those eligible; it would "open the floodgates". Even if the appellant were regarded as a gypsy, she has clearly not resorted to or resided in the Wiltshire area, and the council have no responsibility for her accommodation.

24. Before the site was occupied by the appellant and her companions, the land was used for agricultural purposes, as far as the council knows. The approved Structure Plan policies relevant to this development are H15, which restricts new dwellings in the countryside except for certain classes; H20, which sets out the policy on mobile homes; and H21, which gives special consideration to gypsy caravans and the provision of sites for them. The wording of this last policy has been modified in the proposed Alterations No.1, although the intention of the policy remains the same. Policies H9 and H12 of the North Wiltshire Local Plan reflect the policies in the Structure Plan.

25. The site is in open country, separated from the nearest settlement by a considerable distance. The surrounding land is all in agricultural use. New development is severely restricted in the area, and in this connection caravans are treated in the same way as houses. Whether an exception should be made to these restrictive policies depends on the question of whether the

appellant is a gypsy, but even if it were shown that she was, the site is still not suitable for use as a gypsy caravan site. In addition to the caravans, the site is used to store vehicles and scrap materials.

26. The highway authority do not consider that the route serving the site is adequate for that purpose. The junction of Nash Lane with Stanton Lane has a very sharp radius making turning into the lane from the north difficult. The hedge fronting Stanton Lane to the north restricts visibility in that direction to about 10m where the required visibility is 90m if the speed on the road is assumed to be no more than 30mph. The highway authority agree that if the hedge were cut back, a visibility splay could be constructed, although the planning authority would not wish to see the loss of this hedgerow. The highway itself is substandard in alignment, without footpaths or street lighting, so that pedestrians are at risk from vehicular traffic.

27. Should this appeal succeed, the council would like to see the following conditions applied to any planning approval that might result:

- a. Not more than 4 caravan pitches shall be established on the site located within the southeast corner of the site in that area shown cross hatched on the plan attached hereto, (plan D).
- b. Not more than 2 caravans shall be placed on each pitch.
- c. The site shall not be used for any storage or industrial purposes in connection with a trade or business, save for the parking of lorries.
- d. All the existing hedges around the site along the boundaries marked A-B, B-C, and C-A on the plan attached hereto, (plan D), shall be retained and maintained at a height of not less than 2 metres.

In addition the following conditions were put forward by me at the inquiry:

- e. The usual landscaping condition.
- f. The existing access in the southwest corner of the site shall be permanently closed.
- g. A visibility splay shall be constructed at the junction of Nash Lane with Stanton Lane in accordance with a scheme to be submitted to the local authority and approved by them in writing.

FOR THE INTERESTED PERSONS

28. For the National Gypsy Council, Mr Hughie Smith said, (see document 20), that he had knowledge and experience of the gypsy situation in Wiltshire, and regards both the county and the districts as having a tolerant attitude towards gypsies. As a result of a visit made to the site by Mr Penfold, chairman of the NGC, the NGC did not consider that the inhabitants were gypsies, but "New Wave Travellers" as they call themselves. This group have a social structure which is incompatible with the gypsies, and have problems which are self-inflicted rather than caused by the law. The gypsy social structure is centred around the family unit comprising members of all ages, whereas these travellers are unrelated and are mainly aged between 18 and 25, (see document 19). The NGC regard the definition of a gypsy in the 1968 Act as too wide, and would like to see the definition read "persons of nomadic tradition of life", preferably covering at least 2 generations. If the New Wave Travellers are counted as gypsies for the Act, then the true gypsy will have even greater problems finding accommodation than now.

29. For the Romany Rights Association. Mr Eli Frankham said that his association were concerned about the number of non-gypsy travellers who were seeking pitches on sites, leading at times to the exclusion of gypsies. It was not the intention of the Act that such people were to be provided for. He supported the NGC position concerning the definition in the Act.

30. For the Kington St Michael Parish Council. Mr Sealy thought that the site was being used as a staging post for itinerant travellers, and damage was being done to the surrounding land. More caravans are being parked on the land than is being admitted at the inquiry. Mr Isaac said that the recent past history of the site was, firstly, for grazing horses, when the sheds were built, and then for a "mini-farm". The hedges around the site were very old, and had been spoilt by the appellant.

31. Mr Brown, who had had for the last 7 years a sheep farm adjoining the appeal site, elaborated on the previous uses of the land. The first use he knew of was for grazing horses; then it was used for keeping sheep, rabbits, chickens and ducks; then for sheep. After the appellants arrived, he had had to complain several times over many incidents, such as dogs straying on to the sheep farm, and trespassing. Some incidents were reported to the police, (see document 11).

FINDINGS OF FACT

32. I find the following facts:

- a. The appeal site is a field about 0.54km north of Kington St Michael, and about 3.22km north of Chippenham. It lies in open country apparently all in agricultural use.
- b. The site is divided into 2 parts: one contained 9 caravans and 9 vehicles at the time of my visit, the other is used to graze horses. The previous uses of the site were agricultural.
- c. There are 2 huts on the site, plus a small hut used as a toilet.
- d. All the caravans and vehicles are kept in the southeast corner of the site, except that 5 vehicles were in the southwest corner when I visited the site.
- e. A van body is on the site used for storage, and a lorry chassis is also on the site. At the time of my visit, one lorry contained what appeared to be scrap metal.
- f. There are 2 access points into the site, one in the southeast corner and one in the southwest.
- g. Stanton Lane passes the west side of the site, and Nash Lane the south side. A public footpath runs along the east side. Visibility at the junction of the lanes is restricted to the north, being only 10m instead of the required 90m on the basis that speeds are no more than 30mph.
- h. The histories of the occupiers of the site are set out in paragraphs 7 to 14. The council, the National Gypsy Council and the Romany Rights Association do not regard any of the occupiers as gypsies as defined by the 1968 Act, section 16.

i. The county has provided 7 sites with 165 pitches, and there are 53 pitches on 21 private sites. The county is designated. A further 8 pitches are in the council programme for the next 3 years. In July 1987, there were 214 caravans on authorised sites against 27 on unauthorised sites. There are currently vacancies on council-owned sites.

j. The appellant's brother bought the site in 1986.

k. Two court cases are cited to support the appellant's claim to gypsy status.

l. Local policies are set out in the approved Structure Plan at H15, H20, and H21, and also in policies H9 and H12 of the Local Plan.

CONCLUSIONS

Bearing in mind these facts, I have come to these conclusions.

33. I regard the appellant and the intended occupants of the appeal site as being what are sometimes referred to as "new age travellers". They do not all claim to be of gypsy origin, but all have been travelling about the country, apparently with no fixed abode, for varying periods. In the case of the appellant this has only been for 3 or 4 years, but her husband has been on the road for 10 years, and others presently on the site have travelled for much, and in some cases all, of their lives. They do not represent a cohesive group, up to now travelling separately or in different groups. When occasionally they settle for some time on one site, as in the present case, they form a more or less random grouping of mostly unrelated people. The question as to whether the provisions of the 1968 Act and of Circular 28/77 should apply to them is a matter which the Secretary of State will wish to address. In my opinion, bearing in mind that the definition of gypsies in Section 16 of the 1968 Act means persons of a nomadic habit of life and is not dependent on their race or origin, they should apply.

34. I turn now to the planning issues of the appeal. Wiltshire is a designated county under the 1968 Act. The local authorities have provided 165 pitches, 16 of them in North Wiltshire District, and there are a further 53 pitches in the county on private land. In the official counts of gypsy caravans made between July 1986 and July 1988, up to 214 caravans were parked on authorised sites against only 27 on unauthorised sites, this situation being that recorded in July 1987. On the basis of these figures, at no time during this period, which coincidentally commences before the appellant's occupation of the appeal site, have all the authorised pitches been full. While it is not possible to make a firm conclusion on the submission that not all gypsies are included in the count for political reasons, it is nevertheless correct to conclude that if not all the spaces available are full, then whether every gypsy is counted or not, supply has exceeded demand. The appellant cannot claim that her need justifies an exception being made to the policies.

35. The approved Structure Plan policies, in conformity with national policy, very severely restrict new development in the countryside, whether housing not needed for agricultural purposes, or caravans. The somewhat more tolerant policy on gypsy caravan sites only applies where there may be pressure for sites, and where convincing arguments are put forward in favour of a departure from the development plan. In this case, I do not find that there is justifiable pressure for sites in the light of the provision of sites in the

county as a whole, and no argument at all was put to me concerning a departure from the plan, except on the point that the appellant was a gypsy entitled to camp on the land.

36. Finally, I find that the highway objections concerning visibility at the junction are warranted, as is the planning authority's view that the loss of some 90m of the hedgerow would be visually unacceptable. The road is used, as I observed, by buses and commercial vehicles, and while speeds are low, visibility is so restricted that virtually no advance warning of a vehicle emerging from the bridleway is given. Should the site be used only at the level now envisaged, it is likely that undue hazards would be introduced into this narrow and winding road by extra traffic, including the possibility of caravan-towing vans or lorries.

37. On policy, site suitability, and highway grounds, I find that this appeal should fail. If the the Secretary of State does not agree, and if the deemed application falls to be considered, I suggest that the conditions set out in paragraph 27 be applied, amended as necessary to comply with the advice in Circular 1/85. I would also suggest that a condition be imposed limiting the occupation of the site to gypsies. Condition c. could be expanded to refer specifically to scrap materials as although there was little evidence to support the allegation contained in the notice, and I saw little scrap on the site, the activity of car dealing might result in accumulations of scrap material in a rural location where such material would be particularly objectionable.

RECOMMENDATION

38. I recommend that this appeal be dismissed.

I have the honour to be
Sir
Your obedient Servant

P W ROBINSON
PINS

APPEARANCES

FOR THE APPELLANT

Mr B Cox

Solicitor, Messrs Bobbetts Mackan, 20A
Berkeley Square, Bristol BS8 1HP

He called

Miss Clair Lawson

The appellant.

Mr Mark Wilson

Miss Jennifer Wilson

Mr Ross McPhie

Mrs Lily Smith

Iesha Smith

Miss Min Kent

FOR THE COUNCIL

Mr J F McDonald

Principal Officer, North Wiltshire
District Council.

He called

Mr D Auld MA. DipTP. DMS MRTPI

Assistant Chief Planning Officer, North
Wiltshire District Council.

Mr N J Durnford MRSH. MRIPHH.
MIEH.

Senior Public Health Officer, Wiltshire
County Council.

Mr T P Geering

Assistant Engineer, Wiltshire County
Council.

FOR THE INTERESTED PERSONS

Mr H Smith

President, National Gypsy Council.

Mr E Frankham

Romany Rights Association. Walpole St
Andrew, Wisbech P14 7HP.

Mr R Sealy

Chairman, Kington St Michael Parish
Council, Manor Farm, Kington St
Michael.

Mr W Isaac

Vice-Chairman, Kington St Michael PC.

Mr W J Brown

New Priory Farm, Kington St Michael.

DOCUMENTS

- Document 1 - List of persons at Inquiry, day 1.
- 2 - List of persons at Inquiry, day 2.
- 3 - Notification of Inquiry.
- 4 - Cripps Report.
- 5 - Copy of judgement: North Yorkshire CC v Anne Capstick.
- 6 - Letter from Anne Capstick.
- 7 - Affidavit by S F Rexworthy, and Declaration by the High Court.
- 8 - Further affidavit by S F Rexworthy.
- 9 - Press cutting concerning Mr Isaac Smith.
- 10 - Public Rights of Way in the vicinity of Pooh Corner.
- 11 - 2 letters from the Wiltshire Constabulary.
- 12 - Copy of letter from the British Rommani Union to Miss Lawson.
- 13 - Letters from the County Chief Public Health Inspector to the appellant and her solicitor, dated 27.7.88, 1.9.88, and 9.1.89.
- 14 - Extract from Wiltshire CC Capital Programme.
- 15 - Questionnaire for persons claiming to be gypsies.
- 16 - Bus services on Stanton Lane.
- 17 - Facilities in vicinity of Pooh Corner.
- 18 - List of gypsy sites in Wiltshire.
- 19 - Characteristics of travellers making claims at Chippenham DHSS office, by age and marital status.
- 20 - Statement by National Gypsy Council.

PLANS

- Plan A - Plan attached to enforcement notice.
- B - Plan attached to planning application for the caravan site.
- C - Map showing site in relation to various facilities in the area.

PHOTOGRAPHS

- Photograph 1 - Access at southwest corner of site, seen from Nash Lane.
- 2 - General view towards southeast corner of site.
- 3 - Vehicles in southwest corner of site.
- 4 - Caravans along east side of site.
- 5 - Gypsy caravan and wooden huts in southeast corner of site.
- 6 - As 4.
- 7 - As 2
- 8 - As 4.
- 9 - Caravans along south side of site.
- 10 - Large wooden hut.
- 11 - Hut over cesspit.

Photos 1 - 6 submitted by the local authority, and 7 - 11 by the appellant.

DEPARTMENT OF THE ENVIRONMENT
TOLLGATE HOUSE
HOULTON STREET
BRISTOL
BS2 9DJ

LEAFLET C

RIGHTS OF APPEAL

a) On an enforcement appeal except any decision to grant planning permission on the deemed application under section 88B(3) of the Act

An appeal against the decision given in the accompanying letter on the enforcement notice appeal may be made to the High Court on a point of law under the provisions of Section 246 of the Town and Country Planning Act 1971. Any appeal must be made within 28 days of the date of receipt of this letter (unless the period is extended by the Court).

b) On a decision to grant planning permission on the deemed application under section 88B(3) of the Act, or where there is a related appeal under section 36 of the Act

Section 245 of the Town and Country Planning Act 1971 provides that a person who is aggrieved by the decision, given in the accompanying letter, to grant permission on the deemed application, or by the decision on the appeal made under section 36 of the Act, may challenge its validity by an application to the High Court within six weeks from the date of this letter. The grounds upon which an application may be made to the Court under Section 245 are that:-

1. the decision is not within the powers of the Act (that is, the Secretary of State has exceeded his powers); or
2. any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in Section 245 of the Act: they are the requirements of that Act, the Tribunals and Inquiries Act 1971 (or any other enactment replaced thereby), and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. This includes the Town and Country Planning (Inquiries Procedure) Rules 1988 (SI. 1988 No 944), the Town and Country Planning (Appeals) (Written Representations Procedure) Regulations 1987 (SI. 1987 No 701), the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1981 (SI. 1981 No 1743), and the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981 (SI. 1981 No 1742).

A person who thinks he may have grounds for challenging the decision should first seek legal advice.

INSPECTION OF DOCUMENTS

(only for appeals decided following a local inquiry)

Under the provisions of rule 17(3) of the Town and Country Planning (Inquiries Procedure) Rules 1988, and rule 16(4) of the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1981, any person entitled to be notified

of the decision given in the accompanying letter may apply to the Secretary of State in writing within 6 weeks of the notification to him of the decision, or the supply to him of the Inspector's report, whichever is the later, for an opportunity of inspecting any documents, photographs and plans appended to the report. Such documents etc are listed in an appendix to the report. Any application under this provision should be sent to the address on the decision letter, quoting the Department's reference number shown on the decision letter and stating the proposed date and time (in normal office hours) for the inspection. At least 3 days' notice should be given, if possible.

Any application for inspection should be made to the Secretary of State or to the Secretary of the Department, as the case may be, and should be made in writing. The application should be made to the Secretary of State or to the Secretary of the Department, as the case may be, and should be made in writing. The application should be made to the Secretary of State or to the Secretary of the Department, as the case may be, and should be made in writing.

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RECEIVED
8 MAY 1969

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** 500

Enquiries to Mr McDonald

Your ref

15th April, 1988

Dear Sir/Madam,

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

Land at Pooh Corner, Stanton Lane, Kington St. Michael, Chippenham, Wilts.

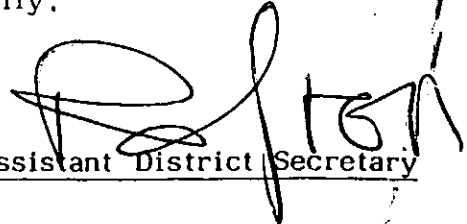
The Council have issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your interest in the land. Unless an appeal is made to the Secretary of State as described below, the Notice will take effect on the date shown in the box below and you must 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 30th May, 1988


Assistant District Secretary

To: Claire Lawson, Mark Wilson, Danny Lawson, Julian Lawson,
Christopher Liengard and Max Margetts all at :-

Caravans
Pooh Corner
Stanton Lane
Kington St. Michael
Chippenham, Wiltshire

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

Reasons for issue:-

1. Mobile Homes, including residential caravans are treated in the same manner as permanent housing and subject to the same controls (Policy H20, Western Wiltshire Structure Plan, 1981).
2. The location of a caravan or caravans on the land is interpreted as a new separate residential use in an area taken to be countryside and outside any defined settlement.
3. The location of a caravan or caravans on the land represents a visually and inappropriate form of development which harms visual amenity within pleasant countryside.

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

Land at Pooh Corner, Stanton Lane, Kington St. Michael, Chippenham, Wilts.

WHEREAS :

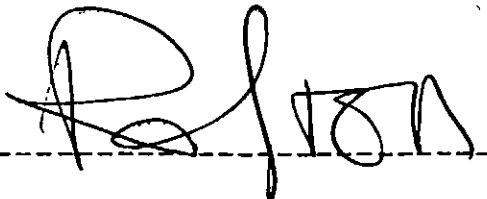
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises ("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 TWO 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 30th May 1988

ISSUED 15th April, 1988

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

E500

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land known as Pooh Corner, Stanton Lane, Kington St. Michael, Chippenham, Wiltshire shown stipple-edged on the attached plan.

SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

The material change in the use of the land from agricultural to a use for that purpose and, in addition, the location of and residential occupation of caravans and the stationing of motor vehicles and scrap material.

SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- (i) To cease the residential use of the land.
- (ii) To remove the said caravans.
- (iii) To remove the said motor vehicles
- (iv) To remove the said scrap material.

SCALE 1:10 000

E500Stanton
St QuintinNORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)**ENFORCEMENT NOTICE**

Sunnley Withy Bad

1938
1-077-a
4.14
**the land
referred to:**

Scale 1:2500

Kington
St Michael