

# ENFORCEMENT INFORMATION

# REGISTER SHEET

E/ 507

APPEAL

yes

no

Plan's Ref/ 88/1906/01

## ADDRESS

TOPPERS RESTAURANT  
CHIPPENHAM RD  
LYNDHAM.

## BREACH of CONTROL

THE CONSTRUCTION OF A FIRST STOREY  
SEPARATE UNIT OF RESIDENTIAL  
ACCOMMODATION INCORPORATING AN  
OUTER DOOR AT THAT LEVEL AND AN  
ATTIC WINDOW ABOVE WITHOUT PLANNING  
PERMISSION FOR THOSE PURPOSES

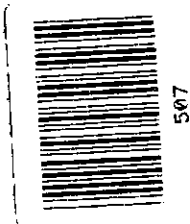
Issuing Authority NWDC

Date Issued 24.5.88.

## STOP NOTICES

Date Served

Requiring



Date(s) served

24.5.88

Takes effect 28.6.88

Compliance by 28.9.88

Dates Extended by  
Secretary of State

Date withdrawn

## REQUIREMENTS of ENFORCEMENT

- 1 TO CLOSE AND MAKE GOOD THE DOOR OPENING AT FIRST FLOOR LEVEL
- 2 TO CLOSE AND MAKE GOOD THE WINDOW OPENING AT ATTIC LEVEL
- 3 TO CARRY OUT THE ABOVE MENTIONED WORKS IN CONFORMITY WITH PLANNING PERMISSION N87 1433 F GRANTED ON 4.9.87. FOR "EXTENSION TO RESTAURANT"

## EXTENT to WHICH NOTICE COMPLIED WITH (dates)

See attached D.O.E. Notice.  
Door opening dismissed.  
Window opening granted.

**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. 443322  
Tel. Chippenham (0249) 654400 x  
Ext. 130

Our ref **E** 507

Enquiries to Mr McDonald

Your ref

24th May, 1988

Dear Sir/Madam,

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

"Toppers Restaurant", LYNEHAM, 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,

  
Authorized Officer

DATE ON WHICH NOTICE TAKES EFFECT  
AND BEFORE WHICH ANY APPEAL  
MUST BE RECEIVED 28th June, 1988

To:

Roger Bernard Frederick Jay  
35 Cheney Manor Road  
SWINDON

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

Reasons for issue:-

1. The creation of an additional separate self-contained dwelling constitutes overdevelopment, it has no private curtilage or vehicle parking space, is situated above a restaurant adjacent to a bed and breakfast establishment and a public house such that the amenities of the occupants would be significantly below that which they could reasonably expect living in a rural village location.
2. The use involves the introduction of an external staircase in a prominent elevation of the building detrimental to the visual amenities of the area and encroaching onto car parking spaces required to be provided in connection with the existing and proposed uses of the premises in accordance with a condition imposed on the planning permission for the building works granted on 4th September, 1988, reference N.87.1433.F

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

-----"Toppers Restaurant" LYNEHAM, 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 within the period of four years before the date of issue of this Notice 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 the building, engineering, mining or other operations 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.

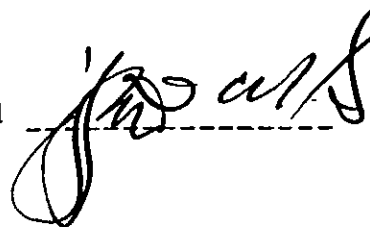
NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to make the development comply with the terms of the planning permission there described within the period of three months from the date on which this Notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 28th June, 1988

ISSUED 24th May, 1988

Monkton Park,  
Chippenham, SN15 1ER

Signed



/ SCHEDULE 1 . . . . .

(over)

SCHEDULE 1 - Land or premises to which this notice relates

Land and buildings known as "Toppers Restaurant", Lyneham, Chippenham, Wiltshire shown stippled on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The construction of a first storey separate unit of residential accommodation incorporating an outer door at that level and an attic window above without planning permission for those purposes.

SCHEDULE 3 - Steps required to be taken

- (1) To close and make good the door opening at first floor level.
- (2) To close and make good the window opening at attic level.
- (3) To carry out the above mentioned works in conformity with planning permission N.87.1433.F granted on 4th September 1987 for "Extension to Restaurant".

E 507

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

Scale 1:2500

the land  
referred to:

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

Mrs. J. Davel

Department of the Environment and  
Department of Transport

D/916/ADB/P



Common Services

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218 915

Switchboard 0272-218811

Council ref: MCD/KP AD/1030

E 507.

R B F Jay Esq  
33 Cheney Manor Road  
SWINDON  
Wiltshire  
SN2 2NT

Your reference

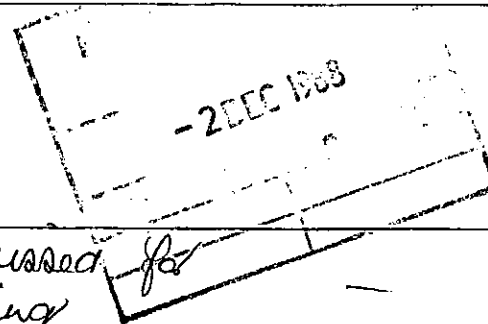
E507

Our reference

T/APP/C/88/J3910/16/P6

Date

29 NOV 88



Sir

*Appeal dismissed for  
door opening*

*Appeal dismissed  
Planning Permission  
granted for  
window  
opening*

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9  
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981  
LAND AND BUILDINGS AT TOPPERS RESTAURANT, LYNEHAM, CHIPPENHAM, WILTSHIRE

1. As you know I have been appointed by the Secretary of State for the Environment to determine your appeal. This appeal is against an enforcement notice issued by the North Wiltshire District Council concerning the above mentioned land and buildings. I have considered the written representations made by you, by the Council, by Lyneham Parish Council, and also those made by interested persons. I inspected the site on 31 October 1988.

2. a. The date of the notice is 24 May 1988.

b. The breach of planning control alleged in the notice is that, within the period of 4 years before the date of issue of the notice, land and buildings known as 'Toppers Restaurant', Lyneham, Chippenham, Wiltshire, shown stippled on the plan attached to the notice, have been developed by the carrying out of building, engineering, mining or other operations, namely the construction of a first storey separate unit of residential accommodation incorporating an outer door at that level and an attic window above, without the grant of planning permission for those developments.

c. The requirements of the notice are:

i. To close and make good the door opening at first floor level.

ii. To close and make good the window opening at attic level.

iii. To carry out the above mentioned works in conformity with permission N.87.1433F granted on 4 September 1987 for 'extension to restaurant'.

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

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

3. I observed on my visit that the appeal premises are located on the south side of the B4069 in Lyneham immediately adjacent to the north-west side of the White Hart Inn. Opposite this site, on the north side of the B4069 there are parking areas associated with a car repair premises, garage and shop. To the west of Toppers

Restaurant there is an open space used for car parking and as a sitting out area for clients visiting this restaurant. At the rear of Toppers Restaurant there is a 2 storey block used as bed and breakfast accommodation which business is administered from the restaurant premises. A driveway runs from the B4069 south-west between Toppers Restaurant and the White Hart to end behind the bed and breakfast accommodation. A bungalow is located at the southern end of this access.

4. During my visit I noted several departures from the approved plan to which Planning Permission N/87/1433/F granted on 4 September 1987 relates. The significant departures, on the ground floor of the permitted extension, are as follows. The 'Pizza Bar' area is used as a Lounge Bar with a serving counter in one corner. About half the proposed lobby space has been taken up by 2 WCs. The wash basin, WC, sink and walls have not been erected as shown on the approved plan. The result of these changes is that the Lounge Bar can be entered by the 2 doors located on the premises' roadside frontage.

5. The first floor of the new extension can only be entered through a doorway at first floor level which faces the car park/amenity area on the west side of this extension. On the first floor the space has been divided up to form a living room, kitchen and bathroom. No cooking or washing/sanitary facilities are installed. No door has been formed between the remaining first floor accommodation, (now occupied by 2 families), as shown on the approved plan. Opposite the entrance door to this accommodation there is a staircase to an attic room. I saw that another window has been inserted between the permitted 2 windows on the first floor and a window in the gable end wall of the attic. There is also a roof light window in the attic.

6. I also saw that the approved car parking plan for the area to the west of Toppers Restaurant has not been implemented. An area on the roadside frontage of the appeal premises, outside the Lounge Bar, about 4.5 m deep and 16.46 m long has been fenced off and gravel surfaced. This gravelled area also extends along the west side of the appeal premises at a width of 7.09 m and has been equipped with picnic tables. The 10 car parking spaces shown on the approved plan adjoining the north and west side of the premises are thereby lost. Five car parking spaces, intended to be located on the west side of the bed and breakfast accommodation block, do not all exist as part of this area, which can only be entered through a double gated access, is used as part of a grassed and gravelled area around the west end of the accommodation block and as a clothes drying area.

7. Having seen the appeal premises and the surrounding area it seems to me that the principal points at issue in this case are whether the partly completed residential accommodation on the first and attic floors of the extension to Toppers Restaurant would provide a satisfactory self contained unit of living accommodation, second, the visual impact made by the external staircase which would be needed to serve the accommodation at first and second floor levels, and third, whether the need to retain car parking space on the west side of the appeal premises, part of which would be lost if an external staircase was provided to serve this accommodation, outweighs the commercial disadvantages which might result from the loss of floorspace if an internal staircase was installed to serve a separate unit of accommodation at first and attic floor levels.

8. As to the first issue, although I consider that the Council's requirement that residents in a rural village located can expect to be able to enjoy a reasonable degree of privacy and the amenities derived from the enjoyment of a garden, deserve support, I take the view that, in this particular case, the proposed rooms and facilities at first and attic floor levels in the appeal premises would provide acceptable living conditions. I do not consider that the requirement for a private parking space, in view of the adjoining large parking area, is a material objection



even though this requirement would reduce available car parking space. I realise that this accommodation would have no amenity space and be situated above a restaurant, but, if (for example), its occupation was tied to service at the appeal premises, I do not think its location would be unacceptable to a worker employed at Toppers Restaurant. There is some amenity space, (part of a field), in the appellants' ownership adjacent to the south-west corner of the accommodation block as I was shown on my visit and a grassed area to the west of the car parking area which could be screened from the B4069 to provide an amenity space. I consider therefore, that, although by no means ideal, the living conditions appertaining to the proposed separate dwelling in this location would be acceptable. I have noted that the Council does not object to the additional window provided at first floor level on the appeal premises' roadside frontage. I do not consider that the further addition of a window in the gable end at attic level, to serve the room constructed in the attic space, to be visually unacceptable.

9. As to the second issue, I concur with the Council that an exterior staircase would appear as an incongruous feature in its proposed position and would detract from the present appearance of the west side of Toppers Restaurant when viewed from the B4069. I consider therefore that an interior means of access is preferable.

10. As to the third issue, I take the view that the Council's efforts to ensure that as much car parking space as possible to the west of the appeal premises is retained, deserve strong support, especially if some spaces are occupied by persons working/living at Toppers Restaurant. As stated above, 2 families, who now operate these premises, live on the first floor. The provision of an external staircase would result in the loss of at least one car parking space and probably more because cars could not be parked close to the wall of the appeal premises at the point the staircase descends to the ground. The resultant change to the planned layout would have the effect of reducing the already limited manoeuvring space between adjacent parking areas and thereby reduce the capacity of the car parking area as a whole. Bearing in mind that this area has to serve the restaurant and the bed and breakfast accommodation block, I consider that there must be compelling reasons to justify the loss of car parking space which would result from the installation of an exterior staircase.

11. I appreciate that it is Government policy that those concerned with planning matters shall endeavour to act constructively, especially in cases which relate to small businesses and I realise also that the provision of an internal staircase would result in some loss of floor space on the ground floor lounge bar in the proposed extension. But, in my opinion, a staircase could be installed without any significant loss of floor space in the lounge bar, bearing in mind that the present unauthorised alterations on the ground floor has resulted in an increase in the envisaged size of the approved Pizza Bar area. I have concluded therefore that any commercial disadvantages accruing from the provision of an internal means of access to the first and attic floors accommodation in the extension are outweighed by the material objections to this part of the proposed development as outlined above. The appeal on ground (a) therefore succeeds only in respect of the window opening at attic level and I shall grant planning permission for this part of the development enforced against the appeal on ground (a) fails in respect of the door opening at first floor level.

12. I have taken into account all the other matters mentioned in the written representations but these do not alter my decision.

- 2 DEC 1988

## FORMAL DECISION

13. In exercise of the powers transferred to me I hereby allow the appeal in respect of the window opening at attic level at Toppers Restaurant, Lyneham, Chippenham, Wiltshire and grant planning permission for the retention of that window as erected. I hereby dismiss the appeal, uphold the notice in respect of the door opening at first floor level at Toppers Restaurant, Lyneham, Chippenham, Wiltshire and refuse to grant planning permission for the relevant application deemed to have been made under Section 88B(3) of the amended 1971 Act.

14. This letter is issued as the determination of the appeal before me. Details of the right of appeal to the High Court are enclosed for those concerned.

15. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Sir  
Your obedient Servant

A handwritten signature in dark ink, appearing to read 'R N Harrison', written in a cursive style.

R N HARRISON OBE MA  
Inspector

ENC

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**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) 654488.  
Ext. 130

Our ref **E** 507

Enquires to Mr McDonald

Your ref

24th May, 1988

Dear Sir/Madam,

**NORTH WILTSHIRE DISTRICT COUNCIL**  
**TOWN AND COUNTRY PLANNING ACT 1971 (as amended)**  
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Yours faithfully,

  
Authorized Officer

DATE ON WHICH NOTICE TAKES EFFECT  
AND BEFORE WHICH ANY APPEAL  
MUST BE RECEIVED 28th June, 1988

To:

Roger Bernard Frederick Jay  
35 Cheney Manor Road  
SWINDON

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

Reasons for issue:-

1. The creation of an additional separate self-contained dwelling constitutes overdevelopment, it has no private curtilage or vehicle parking space, is situated above a restaurant adjacent to a bed and breakfast establishment and a public house such that the amenities of the occupants would be significantly below that which they could reasonably expect living in a rural village location.
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NORTH WILTSHIRE DISTRICT COUNCIL  
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)  
**ENFORCEMENT NOTICE**

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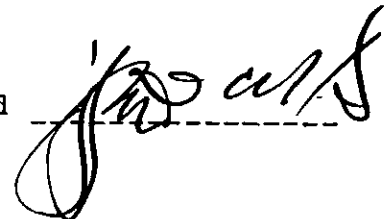
NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to make the development comply with the terms of the planning permission there described within the period of three months from the date on which this Notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 28th June, 1988

ISSUED 24th May, 1988

Monkton Park,  
Chippenham, SN15 1ER

Signed



/ SCHEDULE 1 . . . . .

(over)

SCHEDULE 1 - Land or premises to which this notice relates

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SCHEDULE 2 - Alleged breach of planning control

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SCHEDULE 3 - Steps required to be taken

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- (2) To close and make good the window opening at attic level.
- (3) To carry out the above mentioned works in conformity with planning permission N.87.1433.F granted on 4th September 1987 for "Extension to Restaurant".

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