

plotted
24-5-90

NORTH WILTSHIRE DISTRICT COUNCIL

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 562

APPEAL	yes	no
Plan's Ref		

ADDRESS

LANDS OPPOSITE
WHITTS FARM
GRITTONHAM.
BRINDWORTH.

BREACH of CONTROL

THE ERECTION OF A WOODEN SECTIONAL
BUILDING OF APPROX 17m x 7m OF
A HEIGHT OF APPROX 3m WITH ENDER
FRAMED BUILDING ATTACHED
THERETO OF APPROX 2.5m x 2.5m.

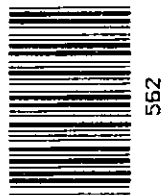
Issuing Authority NWDC

Date Issued 14.3.90

STOP NOTICES

Date Served

Requiring



Date(s) served

14.3.90

Takes effect 18.4.90

Compliance by 18.8.90

Dates Extended by
Secretary of State

Date withdrawn

REQUIREMENTS of ENFORCEMENT

TO REMOVE THE SAID WOODEN SECTIONAL BUILDING
AND THE TIMBER FRAMED BUILDING ATTACHED
THERETO

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

IMPORTANT

THIS COMMUNICATION AFFECTS
YOUR PROPERTY

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



**North Wiltshire
District Council**

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 443322
Ext. 594

Our ref **E** 562 Enquiries to Mr McDonald

Your ref

Dear Sir/Madam,

14th March 1990

NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

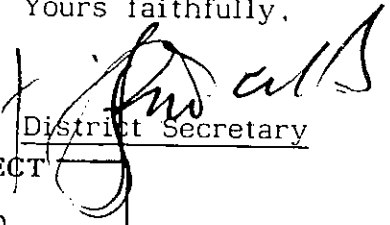
Land opposite "White's Farm" Grittenham Brinkworth Chippenham Wiltshire

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,


District Secretary

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED 18th April 1990

To: John H. Smart
Old Waggon and Horses
Brinkworth
Chippenham
Wiltshire SN15 5 AD

Jacqueline Smart
Old Waggon and Horses
Brinkworth
Chippenham
Wiltshire SN15 5AD

E 562

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

Reasons for issue :-

1. The building and associated works, by reason of the prominent location of the land, are detrimental to the visual amenity and character of the locality and create an undesirable precedent for similar proposals.

2. The building and associated works are not reasonably necessary to agriculture such that an exception to the established policies for the protection of the countryside would be justified.

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

Land opposite "White's Farm" Grittenham Brinkworth Chippenham Wiltshire

WHEREAS :

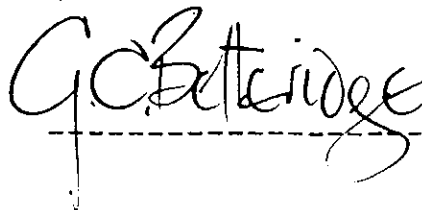
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of four years before the 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 remedy the breach within the period of FOUR 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 18th April 1990

ISSUED 14th March 1990

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land opposite 'White's Farm' Grittenham Brinkworth Chippenham Wiltshire
shown stipple-edged on the attached plan

SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

The erection of a wooden sectional building of approximately 17m by 7m
of a height of approximately 3m with a timber framed building attached
thereto of approximately 2.5m x 2.5m.

SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

To remove the said wooden sectional building and the timber framed
building attached thereto.

SU

NORTH WILTSHIRE DISTRICT

SCALE 1:10 000

E 562

185000m

02

03

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

BRINKWORTH CP

Grittenham Brook



White's Farm Cottages

White's Farm

Laker's Farm

Grittenham

Pinnell's Farm

Vine's Farm

Goddard's Farm

Laker's Farm Cottages

Blunt's Cottages

Grove Farm

Strange's Farm House

Olivemead Farm

the land referred to:

2560
182ha
45
8 M 70.91m

White's Farm Cottages

145m
5.28ha
(3.0)

Approximate position of building

2541
3.389ha
8-171440
1.523ha
1-76

White's Farm

1777
807ha
48

8 M 73.41m

Scale 1:2500

023

024

025

BRINKWORTH

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



Planning Inspectorate

Department of the Environment

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218915/36/38
Switchboard 0272-218811
GTN 1374

Margaret Scott

Mr J H Smart
The Old Wagon and Horses
Brinkworth
Chippenham
Wilts, SN15 5AD.

PLA
4 DEC 1990
PAC

Council references
McD/KP AD/1361,1393,E562
Your reference

Our references
APP/C/90/J3910/6,11,12

Date

29 NOV 90

Sir,

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6.
LAND AND BUILDINGS AT WHITES FARM GRITTENHAM.

1. I have been appointed by the Secretary of State for the Environment to determine your appeals. These appeals are against 3 enforcement notices issued by the North Wiltshire District Council concerning the above mentioned land and buildings. I held an inquiry into the appeals on 13 November 1990.

Notice A (Council ref 562)

2. a. The date of the notice is 14 March 1990.
- b. The breach of planning control alleged in the notice is the erection of a wooden sectional building of approximately 17m by 7m of a height of approximately 3m with a timber framed building attached thereto of approximately 2.5m by 2.5m.
- c. The requirements of the notice are to remove the said wooden sectional building and the timber framed building attached thereto.
- d. The period for compliance with the notice is 4 months.
- e. The appeal was made on grounds 88(2) (a), (b), (c), (f), (g), and (h). At the inquiry, however, ground (f) was withdrawn.

Nb. An appeal against this notice made by Mrs J Smart was subsequently withdrawn.

Notice B (Council ref 562b)

3. a. The date of the notice is 27 April 1990.



- b. The breach of planning control alleged in the notice is the use of the southern part of this land for the storage of topsoil, subsoil, builders waste, hardcore and similar materials.
- c. The requirements of the notice are to remove the materials from the site, reform a level surface with topsoil to a depth of not less than 100mm and seed with grass.
- d. The period for compliance with the notice is 4 months.
- e. The appeal was made on ground 88(2) (c).

Notice C (Council ref 562c)

- 4.
 - a. The date of the notice is 27 April 1990.
 - b. The breach of planning control alleged in the notice is the laying on part of the southern part of this land an area of hardcore.
 - c. The requirements of the notice are to remove the hardcore materials from the site and reform a level surface with topsoil to a depth of not less than 100mm and seed with grass.
 - d. The period for compliance with the notice is 4 months.
 - e. The appeal was made on ground 88(2) (c).
- 5. The evidence was not taken on oath.

Summary of Decisions

- 6. The appeals against notices A and C fail in all parts except that on ground (h) to notice A. The appeal against notice B succeeds.

Notice A.

The appeal on ground (c).

- 7. Although you did not formally withdraw the appeal on ground (c), you accepted that the evidence you had prepared went to that on ground (b). The building had been erected and it could not be claimed that the development had not taken place. The appeal on ground (c) fails.

The appeal on ground (b).

- 8. The appeal site is 6 acre field situated in predominantly open countryside some way to the south of the village of Brinkworth. The land fronts onto a class III county road. You said that you bought the field in 1988 so that your son could develop his sheep farming business known as R A S Sheep Enterprises. A building was required to store hay, straw and machinery. It would also be needed to winter livestock. The appeal building, a reused prefabricated timber structure reminiscent, in my view, of an old army barrack hut, was erected late in 1988. But as the Council

accepted, it was started before 5 December that year, the date of the coming into effect of the the Town and Country Planning General Development Order 1988.

9. It was your contention that the appeal building was permitted development by virtue of Class VI of the Town and Country Planning General Development Order 1977. I do not agree. The Council correctly said that Class VI of that Order only applied if the land was actually being used for agricultural purposes at the time the building was erected. I consider their submission that this was the case here to be persuasive. It seems to me that the building was put up in order to facilitate the establishment of the sheep farming business at the appeal site rather than to continue its operation on this land. The building was erected in late 1988. But no grazing was available until the spring of 1989 and, clearly, no stock could be housed on the site until the building was available. Although the period between the sale of the land to you by a Mr Nicholls and the erection of the building may have been brief, it is my view that the appeal land was not being used for an agricultural trade or business when work started on the building.

10. The Appeal Courts' decision of 8/12/1983 in the case of Joan Jones v Stockport MBC is authority for the view that Class VI was applicable if the land in question was actually being used for agricultural purposes at the time the operational development took place; in this case when a start was made on the building.

11. The Council were of the opinion that the operation as now run from the appeal land was more of a hobby than a trade or business. They also maintained that the hardcored area, the subject of notice C, should be regarded as works associated with the building, thus bringing both as one entity within 25m of a classified road and so together should be taken outside the exemptions of class VI. I do not come to a firm view on those points. But I find that planning permission was required for the building as I am not satisfied that, in the particular circumstances of this case, the land was in agricultural use when erection commenced.

12. In concluding that the appeal on ground (b) should fail, I also have considerable doubt, having inspected the appeal building, that it was designed for the purposes of agriculture.

The appeal on ground (a).

13. The appeal building is, in my opinion, most unattractive and unprepossessing. The Council called it ugly. I do not dissent too far from that. Whilst the otherwise pleasant character of the nearby countryside is adversely affected by the haulage yard almost opposite, I consider that the appeal building has materially harmed the appearance of its rural surroundings. Its retention would be contrary to the need to protect the countryside for its own sake. It would also, in my view, be in conflict with approved North East Wiltshire Structure Plan policy C6 and emerging North Wiltshire Local Plan policy C7. Both policies seek, amongst other things, to ensure that due regard is paid to the design and siting of agricultural buildings which need planning permission.

14. In deciding that the appeal on ground (a) also fails, I have had regard to the possibility that, if the appeal building is removed, another building for housing livestock could be erected without the need for planning permission. That is not a matter before me. But it seems to me

that, under the provisions of the Town and Country Planning General Development Order 1988, such development would not be permitted because of the likely application of A.1 (j) of Part 6 of the Order.

15. I have considered whether it would be appropriate to retain the present building if suitable conditions were imposed. The fronting hedge could be strengthened and more planting carried out. But I find the appeal building so incongruous and intrusive that it should not remain. I have also had regard to the fact that your son is operating a small farming business at the appeal site. Such enterprises are generally to be encouraged. But it should not be done at an unacceptable cost of undue damage to the appearance of the countryside. The appeal on ground (a) fails.

The appeal on ground (g)

16. In my view the evidence you gave on this ground of appeal was more appropriate to the appeal on ground (a). The Councils requirement that the building be removed seems to me to be the minimum that is necessary to remedy the breach of planning control. As the Council accepted that there was no timber framed building attached to the appeal building, I shall delete reference to that in the allegation and in the requirement. Subject to that, I will leave the requirement as it is. The appeal on ground (g) fails.

The appeal on ground (h)

17. You contended that 4 months was an inadequate period to wind up the farming operations at the appeal site. A minimum of one year was requested. The Council expressed no strong view on the possibility of an extension. Accordingly, I consider it reasonable to allow sufficient time for alternative arrangements to be considered and pursued. I will increase the period for compliance to one year. To that extent, the appeal on ground (h) succeeds.

Notice B

The appeal on ground (c)

18. I found the area subject to this notice to be indistinct both on the notice plan and on the ground. You said that there had been agricultural buildings on this site for many years. They had been demolished and cleared some time ago. All that had been done since you acquired the land was to scrape away and spread dung. The materials referred to by the Council were no more than remains of the old buildings and their cobbled yard.

19. Outside the area covered by notice C, but within that covered by notice B, it appeared to me that the recently disturbed ground was composed of topsoil and some building rubble. Attempts had been made to clear the land of larger pieces of stone and brick. I was not persuaded by the evidence or my inspection that the facts were other than as you claimed and that the site had not been used for the storage of the materials listed in the notice. I formed the view that what had taken place was no more than an attempt to improve and repair the land and that no breach of planning control had occurred. The appeal succeeds and I do not need to go on to deal with the deemed application. Notice B will be quashed.

Notice C

The appeal on ground (c)

20. Although you made an appeal on this ground, ie. that the matters alleged in the notice had not taken place, you accepted that material had been imported to the site to form a hardstanding area. You referred to this material as scalpings. The Council called it hardcore. What I saw was a layer of what looked like old road bitumen bound stone placed on an area approximating to that shown on the notice plan. It cannot be said that the matters alleged had not occurred. The appeal on ground (c) fails.

The deemed application

21. You did not appeal on ground (a) of the Act. But I need to consider the deemed application for the retention the hardcore area. In view of my decision on the merits of the appeal in respect of notice A, I conclude that there is no justification to retain an unattractive black surfaced area which has harmed the appearance of this field. I will not grant planning permission on the application deemed to have been made.

22. You did not appeal on ground (g). But you complained that the notice, if confirmed, would require you to cover the ground with topsoil where there had been none when you bought the land. I recognise it would be impractical and imprecise to require the land to be restored to its former condition. But it seems to me to be reasonable to require the hardcore be removed and a layer of topsoil be placed to repair the resulting damage. As in the case of notice A, I have had regard to the possibility that, if the hardcore is removed, it could be replaced without the need for planning permission. Again, that is not a matter before me. But I consider it likely that, under the provisions of the Town and Country Planning General Development Order 1988, such development would not be permitted because of the likely application of A.1 (g) of Part 6 of the Order.

23. I have considered all the other points raised in the representations including those made by Mr Russell in support of your appeals. I also sympathize with the wish to continue the farming enterprise, but find that these matters do not affect my decisions.

FORMAL DECISIONS

Notice A

24. For the above reasons and in exercise of the powers transferred to me, I hereby direct that notice A be corrected by deletion of the words "with a timber framed building attached thereto of approximately 2.5m x 2.5m." in Schedule 2 and the deletion of the words "and the timber framed building attached thereto." in Schedule 3 to the notice. I also direct that the period for compliance be varied by the deletion from the paragraph 4 of page 1 of the notice the words "four months" and the substitution of the words "12 months". Subject thereto, I dismiss this appeal, uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made.

Notice B

25. For the above reasons and in exercise of the powers transferred to me, I hereby allow the appeal against notice B and direct that the notice be quashed.

Notice C

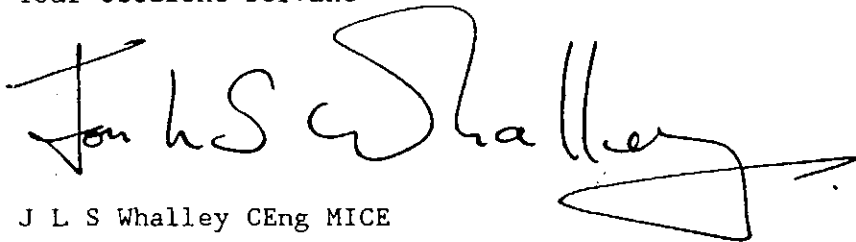
26. For the above reasons and in exercise of the powers transferred to me, I hereby dismiss the appeal against notice C uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made.

RIGHT OF APPEAL AGAINST DECISIONS

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

I am Sir,

Your obedient Servant

A handwritten signature in cursive script, reading 'J L S Whalley'. The signature is written in dark ink and includes a large, stylized flourish at the end.

J L S Whalley CEng MICE

Inspector

APPEARANCES

FOR THE APPELLANT

Mr. J H Smart Appellant, who appeared on his own behalf and who also gave evidence.

Mr. S Smart Appellants son.

FOR THE PLANNING AUTHORITY

Mr. J F McDonald Principal Officer, North Wiltshire District Council.

he called

Mr D J Auld MA (Oxon) Dip TP DMS MRTPI Assistant Chief Planning Officer, North Wiltshire District Council.

INTERESTED PERSON

Mr R Russell Church Farm Brinkworth Wiltshire.

Local Resident

DOCUMENTS

- Document 1 List of persons present at the inquiry
- " 2 Inquiry notice and circulation list
 - " 3 2 letters supporting the appellant
 - " 4 Appendices submitted by the appellant
 - " 5 Statutory declaration of Marc David Willis
 - " 6 Letter from Mr M Deller
 - " 7 Structure Plan policy C6, Local Plan policy C7
 - " 8 Class VI of the Town and Country Planning General Development Order 1977

IMPORTANT -

THIS COMMUNICATION AFFECTS
YOUR PROPERTY

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

PLANNING DEPT.	
15 MAR 1990	
PASSED TO	DATE REC.

Our ref **E** 562

Enquiries to Mr McDonald

Your ref

Margaret Scott



**North Wiltshire
District Council**

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 443322
Ext. 594

Dear Sir/Madam,

14th March 1990

NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

● ENFORCEMENT NOTICE

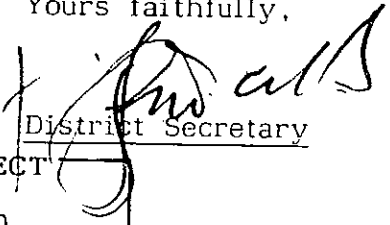
Land opposite "White's Farm" Grittenham Brinkworth Chippenham Wiltshire

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Yours faithfully,


District Secretary

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED 18th April 1990

To: John H. Smart
Old Waggon and Horses
Brinkworth
Chippenham
Wiltshire SN15 5 AD

Jacqueline Smart
Old Waggon and Horses
Brinkworth
Chippenham
Wiltshire SN15 5AD

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

Reasons for issue :-

1. The building and associated works, by reason of the prominent location of the land, are detrimental to the visual amenity and character of the locality and create an undesirable precedent for similar proposals.

2. The building and associated works are not reasonably necessary to agriculture such that an exception to the established policies for the protection of the countryside would be justified.

E

562

PLANNING DEPT.	
15 MAR 1990	
PAASSED TO	DATE REC

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

Land opposite "White's Farm" Grittenham Brinkworth Chippenham Wiltshire

WHEREAS :

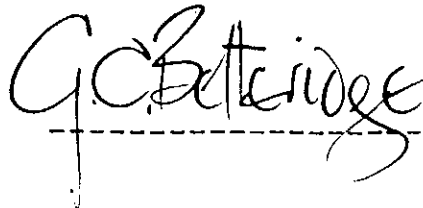
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NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to remedy the breach within the period of FOUR MONTHS from the date on which this Notice takes effect.

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ISSUED 14th March 1990

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

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shown stipple-edged on the attached plan

SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

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of a height of approximately 3m with a timber framed building attached
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SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

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SU

185000m

NORTH WILTSHIRE DISTRICT

02

SCALE 1:10 000

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E 562

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

BRINKWORTH CP

Grittenham Brook



White's Farm Cottages

White's Farm

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Strange's Farm House

Olivewood Farm

the land
referred to:



White's Farm Cottages

145m
5.283ha
11.05

Approximate
position of
building

Scale 1:2500

BRINKWORTH

PLANNING DEPT.	
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PASSED TO	DATE REC.

IMPORTANT -

**THIS COMMUNICATION AFFECTS
YOUR PROPERTY**

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



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Our ref **E** 562 Enquiries to Mr McDonald
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14th March 1990

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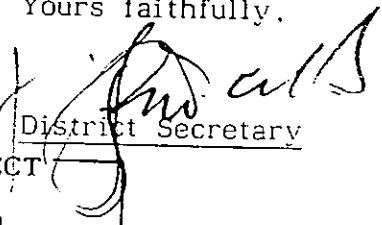
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District Secretary

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Jacqueline Smart
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Wiltshire SN15 5AD

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

Land opposite "White's Farm" Grittenham Brinkworth 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 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.
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THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act, on 18th April 1990

ISSUED 14th March 1990

Signed

G.C. Betteridge

Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land opposite "White's Farm" Grittenham Brinkworth Chippenham Wiltshire
shown stipple-edged on the attached plan

SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

The erection of a wooden sectional building of approximately 17m by 7m
of a height of approximately 3m with a timber framed building attached
thereto of approximately 2.5m x 2.5m.

SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

To remove the said wooden sectional building and the timber framed
building attached thereto.

T COUNCIL ANNING ACT 1971 (as amended) ENT NOTICE

43322

the land
referred to:

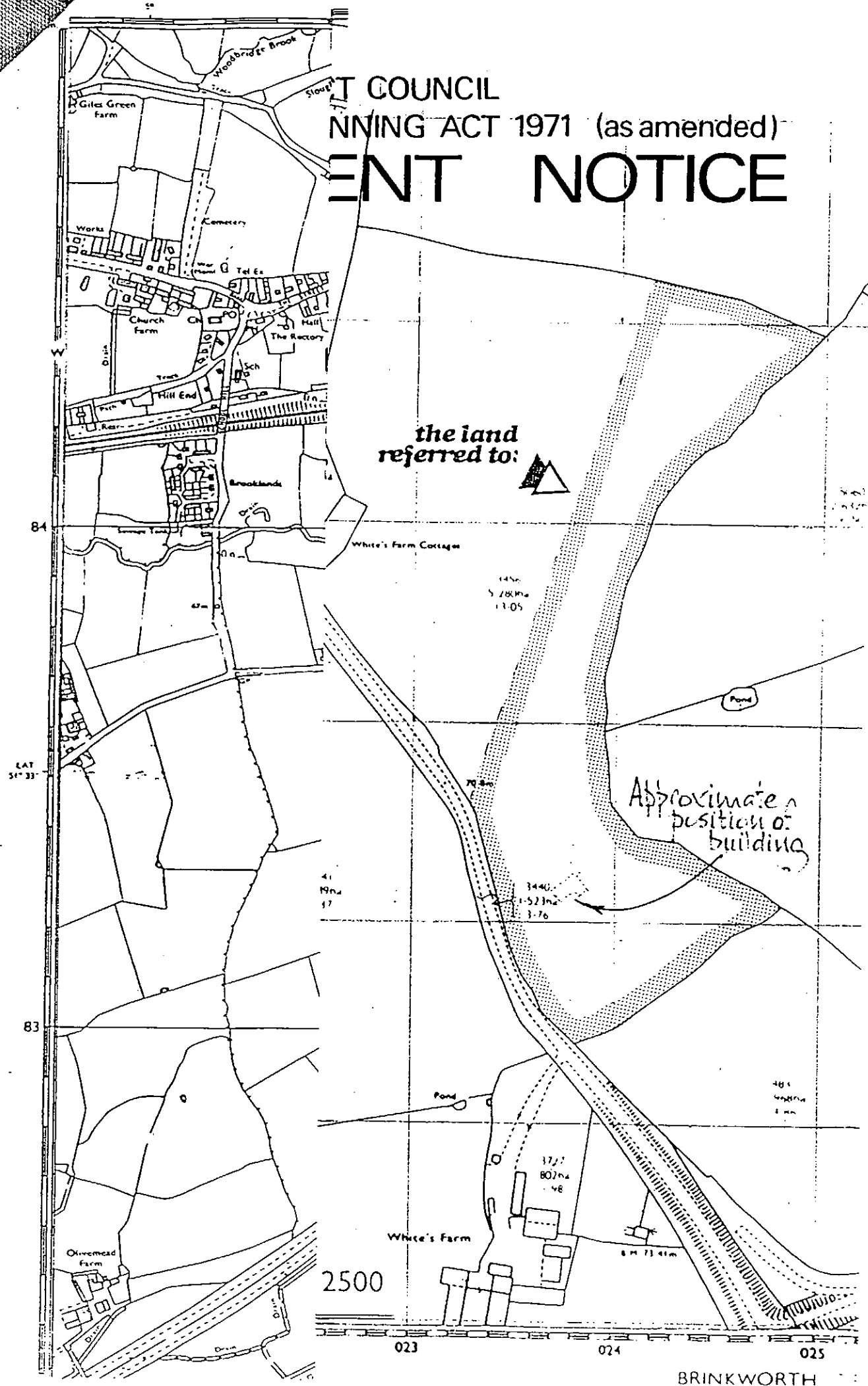


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