

# ENFORCEMENT REGISTER INFORMATION SHEET

Plotted  
13-8-90 *Jul*

**E/** 586 B

APPEAL yes no

Plan's Ref

## ADDRESS

LAND AT AND ADJACENT TO  
BARNHILL FARM.  
BUSHTON RD  
BROAD TOWN

## BREACH of CONTROL

THE TIPPING OF SUB SOIL  
AND OTHER MATERIALS ON  
THE LAND

Issuing Authority NWDC

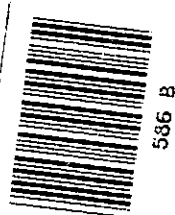
Date Issued 13.6.90

## STOP NOTICES

Date Served

Requiring

Enforcements  
have been plotted.  
To be registered  
& filed. *Jul*



Date(s) served

13.6.90

Takes effect 20.7.90

Compliance by 20.1.91

Dates Extended by  
Secretary of State

Date withdrawn

## REQUIREMENTS of ENFORCEMENT

- 1 TO REMOVE AND GRASS THE TIPPED SUB SOIL  
AND OTHER MATERIALS, AND;
- 2 TO RESTORE THE LAND BY THE SPREADING OF TOP SOIL  
TO A DEPTH OF BETWEEN 100MM AND 150MM OVER  
THE TIPPED SUB SOIL AND OTHER MATERIALS, AND  
THE SPREADING OF SUCH TOP SOIL WITH GRASS, SUFFICIENT  
TO SUSPEND THE USE OF THE LAND FOR AGRICULTURE.

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



*R. Bunter*  
*586A*  
**North Wiltshire  
District Council**

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

Our ref **E** 586B

Enquiries to Mr McDonald

Your ref

13th June 1990

Dear Sir/Madam,

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

Land at and adjacent to Barnhill Farm Bushton Road, Broad Town, 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,

*G C Betteridge*

District Secretary

DATE ON WHICH NOTICE TAKES EFFECT  
AND BEFORE WHICH ANY APPEAL  
MUST BE RECEIVED 20th July 1990

To:

Frederick Sims  
Barnhill Farm  
Bushton Road  
Broad Town  
Wootton Bassett  
Wilts. SN4 7 QT

John Sims  
Barnhill Farm  
Bushton Road  
Broad Town  
Wootton Bassett  
Wilts. SN4 7QT

David Beasley  
5 Swinburne Place  
Wootton Bassett  
Wilts. SN4 8LE

E586B

ANNEX - (This does not form part of the enforcement notice)

Reasons for issue:

1. The development constitutes isolated and sporadic development within open countryside which would be detrimental to the character of this area in particular and rural amenity in general, and would set a precedent for further similar undesirable proposals for commercial uses on this and adjacent land.
2. The use, and the tipping of waste materials in connection with the use, would detract from the amenity of the area and from the character of the countryside, in conflict with Policy E13 of the draft North Wiltshire Local Plan.

E 586B

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586B

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

Land at and adjacent to Barnhill Farm, Bushton Road, Broad Town, 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 SIX 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 20th July 1990

ISSUED 13th June 1990

Signed

G C Bellamy

Monkton Park,  
Chippenham, SN15 1ER.

/ SCHEDULE 1 . . . . .

E586B

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land at and adjacent to Barnhill Farm, Bushton Road, Broad Town, Wiltshire, shown stipple-edged on the attached plan

SCHEDULE 2- ALLEGED BREACH OF PLANNING CONTROL

The tipping of subsoil and other materials on the land

SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- (i) To level and grade the tipped subsoil and other materials; and
- (ii) To restore the land by the spreading of topsoil to a depth of between 100mm and 150mm over the tipped subsoil and other materials, and the seeding of such topsoil with grass, sufficient to sustain the use of the land for pasture

**IMPORTANT -**  
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(over)



E586B

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**Planning Inspectorate  
Department of the Environment**

Room 1101 Tollgate House Houlton Street Bristol BS2 9DJ  
Telex 449321

Direct Line 0272-218 514  
Switchboard 0272-218811

GTN 1374

E 586a and b N.90.2002ENF, N.90.2112ENF and N.90.2113ENF

Your reference

Jeff Hill Esq  
Planning Consultant  
8 Fern Street  
Gilfach Goch  
PORTH  
CF39 8TP

<b>PLANNING DEPT.</b>	
19 FEB 91	
21 FEB 1991	
PASSED TO	DATE REC.

MJ 145

Our reference

T/APP/C/90/J3910/000016, 17, 18  
and 20/P6

Date

15 FEB 91

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6  
APPEALS BY MR D BEASLEY AND MR AND MRS J SIMS  
LAND AT AND ADJACENT TO BARNHILL FARM, BUSHTON ROAD, BROAD TOWN, WILTSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. These appeals are against 2 enforcement notices issued by the North Wiltshire District Council concerning the above mentioned land. I held an inquiry into the appeals on 15 January 1991 and I inspected the site on the same day.

**NOTICE 'A'**

2. a. The date of the notice is 13 June 1990.

b. The breach of planning control alleged in the notice is the making of a material change of use of the land from agricultural use to a continuing use for that purpose and, in addition, use for the tipping of subsoil and other materials, for the parking of motor vehicles and mechanical plant, and the storage and placing of skips on the land, without the grant of planning permission.

c. The requirements of the notice are:- (1) to cease the use of the land for the tipping of subsoil and other materials or for the parking of motor vehicles or mechanical plant, or for the storage or placing of skips on the land; and (2) to remove from the land the said motor vehicles, mechanical plant and skips.

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

e. The appeal was made on the grounds set out in Section 174(a), (b) and (h) of the 1990 Act.

**NOTICE 'B'**

3. a. The date of the notice is 13 June 1990.

b. The breach of planning control alleged in the notice is the tipping of subsoil and other materials on the land, without the grant of planning permission.



c. The requirements of the notice are (1) to level and grade the tipped subsoil and other materials; and (2) to restore the land by the spreading of topsoil to a depth of between 100 mm and 150 mm over the tipped subsoil and other materials, and the seeding of such topsoil with grass, sufficient to sustain the use of the land for pasture.

d. The period for compliance with the notice is 6 months.

e. The appeal was made on the grounds set out in Section 174(2)(b) of the 1990 Act.

4. The evidence of Messrs Singer, Beasley and Auld, and Miss Hind was taken on oath.

5. Both notices relate to the same piece of land, which I shall refer to as the appeals site. The appeals site is situated in flat open countryside and includes the cluster of farmyard, buildings, and houses at Barnhill Farm. The site also includes areas of open agricultural land to the east and south of the farmstead. The town of Wootton Bassett lies about one mile due north and is reached by the C15, which passes the site, and the B4041 which has a junction with the C15 about 300 m to the east of the site. A public footpath is shown on Ordnance Survey Maps running just to the east of the farmstead.

6. You submit that the way the appeals site has been drawn in the notices is incorrect and misleading. In respect of the alleged breach of planning control involving tipping you argue that the relevant site should be ell shaped and as shown on your drawing MJ/145/101/A and in respect of the alleged breach involving motor vehicles, mechanical plant and skips the relevant site should be the single building shown on your drawing MJ/145/101/B. ELL  
? 45m x 10m

7. It appears to me that the extent of the tipping you have drawn roughly corresponds to the actual area of land which has been tipped. Your drawing was however prepared in retrospect and you say the tipping is now complete. But it seems to me that the Council were not necessarily in a position to know the final extent of the tipping proposed by your clients when the notices were issued. As to the motor vehicles, plant and skips, these have not, according to the evidence of both parties, been always confined to the building. In that the appeals site encompasses the land where the breaches alleged by both notices have taken place I do not consider it to be incorrect or misleading. Indeed I consider that the inclusion of the whole farmstead, together with some adjacent open land, to be logical.

#### The Appeals Relating to Tipping (Notices 'A' and 'B')

8. The appeal on ground (b) is based on 2 arguments, namely that the tipping is so insignificant as to be de minimis, and, in any case it was carried out for the purpose of agricultural improvement and is therefore permitted development under the provisions of the Town and Country Planning General Development Order 1988.

9. According to my scaling from drawing MJ/145/101/A the area which has been tipped is some 70 m long in a north/south direction by some 20 m wide. In an east/west direction the tipped area is some 50 m long by 10 m wide. Except at its edges the thickness of the tipped area cannot be established by visual inspection. However along the eastern edge the thickness appears to be about two-thirds of a metre. I find that a considerable quantity of material has been tipped on the site, which has resulted in a significant alteration of the land form. While I note your conclusion that the Chief Public Health Inspector of Wiltshire County Council obviously feels that the tipping operations are small enough to be excluded from Disposal Licence controls I nevertheless find that in terms of planning considerations the tipping operation was substantial and by no means de minimis.

10. The area where the tipping has taken place was, you say, formerly sunken and undulating land which allowed water to pond. Dumping of manure and rubble etc ancillary to farm use used to take place there. In order to improve the land, and also access, the manure and rubble have been levelled and quantities of imported subsoil and rubble have been spread over the land. The tipped area is now being allowed to settle and in the spring, you say, the soil will be levelled over with any necessary topsoil and then seeded to grass.

11. I find on the evidence that the tipping that has taken place was not merely a means of disposing of unwanted material. It appears to me that there was clearly an intention that the tipping should serve a purpose beneficial to the lands potential for use. I find that the tipping of the material and the grading which has been carried out constitutes an engineering operation and not a material change of use of land. In that Notice 'A' alleges that the tipping constitutes a material change of use of land I therefore consider it to be incorrect. Since the tipping is also referred to in Notice 'B', and correctly described there as operations, I propose to remove the reference to tipping from Notice 'A' and make consequential alterations to Notice 'B'.

12. While I am satisfied that some agricultural improvement or benefit will accrue from the tipping, subject to the tipped area being properly treated and restored, it is clear from the evidence that another purpose of the tipping was to improve access to the site for the vehicles and equipment connected with Mr Beasley's skip hire business. Mr Beasley says that he has not used the appeal site as a tip for the waste material connected with his skip hire business. He only tips at licensed facilities. As to the sort of material which has been tipped, this mainly includes subsoil and builders' rubble. Mr Beasley says that the bulk of the subsoil was surplus excavated material imported by him from a building site in Wootton Bassett.

13. In that surplus excavated material is an unwanted by product of the building process I consider that it constitutes waste. Since Part 6 of the Town and Country Planning General Development Order 1988 expressly excludes waste materials brought from elsewhere from the permitted development rights to carry out engineering operations for the purposes of agriculture, I conclude that the tipping operations which have been carried out on the appeal site are not permitted development and require planning permission. Planning permission has not been granted and consequently I find that the matters alleged in Notice 'B' do constitute a breach of planning control and the appeal on ground (b) will fail.

14. I refer now to the appeal on ground (a). From my inspection of the appeal site and its surroundings and from the representations made at the inquiry, and in writing, I find the main issue is whether or not the tipping is harmful to the appearance of the countryside.

15. The area of tipping to the east of the farm buildings has, it appears to me, been roughly levelled while the area to the south does not appear to have reached a stage where topsoiling and restoration could begin. You say that tipping has now been completed.

16. The tipped area may be seen from the farm entrance in Bushton Lane and also from certain points to the east along the lane. The tipping also lies adjacent to the public footpath and is therefore particularly conspicuous from that quarter, although it appears from the representations at the inquiry that the footpath is seldom if ever used. In my opinion the tipped area is undoubtedly unsightly and detracts from the local landscape. Although the countryside hereabouts is not in an Area of Outstanding Natural Beauty or other sort of special landscape area it is nevertheless quite attractive farmland and deserves protection from unsightly development. I am not satisfied that all the tipping was reasonably necessary and

justified for agricultural improvement. I am also firmly of the view that no further tipping should take place and that proper restoration should be carried out without delay. My conclusion is that the tipping is harmful to the appearance of the countryside and the appeal on ground (a) will therefore fail.

#### The Appeals Relating to Motor Vehicles, Mechanical Plant and Skips (Notice 'A')

17. I refer first to the appeal on ground (a). From my inspection of the appeal site and its surroundings and from the representations made at the inquiry, and in writing, I find the main issue to be whether or not the parking and storage of motor vehicles, mechanical plant, and skips on the site is harmful to the character and appearance of the countryside hereabouts.

18. Mr Beasley says that his skip hire business involves delivering skips to building and other sites. When the skips are full he picks them up and takes them to the tip. He then returns the empty skip to the same site or a new site. Ideally the skips should be always on sites because when they are at Barnhill Farm they are not earning money. Mr Beasley has some small skips and some large ones; the large ones are seldom brought back to Barnhill Farm except for repair. Mr Beasley currently has 3 skip lorries, 15 small skips and 30 large ones. You say that Mr Beasley wishes to store his vehicles and skips and office in a redundant agricultural building (covered yard) on the appeal site and use the building as a base for his business including storage of spares and maintenance of his vehicles, plant and equipment.

19. It appears that the activity which led the Council to issue Notice 'A', was among other things, the parking in the open of motor vehicles, plant and skips. As recently as November 1990 and January 1991 Council Officers have observed motor vehicles and skips parked, or stored, in the open on the appeal site.

20. Motor vehicles and skips parked or stored to the east and south of the redundant agricultural building would, like the tipping, be visible from Bushton Lane and the public footpath. In this flat, open landscape the subject parking and storage use would represent a prominent intrusion out of keeping with the rural character of the area in my opinion. The subject use would also conflict with the objectives of local planning policies relating to new development in the countryside. I am not satisfied the adverse visual effects of external parking and storage could be overcome by tree planting. My conclusion is that external parking and storage of motor vehicles, plant and skips ought not to be granted planning permission.

21. If the motor vehicles, plant and skips were to be kept within the covered yard the adverse visual effects of external storage would, of course, be overcome. I am conscious that the government is keen to see redundant agricultural buildings being re-used, where appropriate, especially by small firms like Mr Beasleys. Local planning policy also contains a presumption in favour of permitting the change of use of buildings in the countryside to use for employment purposes subject to certain provisos.

22. It appears however that the access doorway to the covered yard is too narrow and too low for Mr Beasley's vehicles to be manoeuvred in or out without difficulty. The skip carrier suspension arms must be lowered to permit the skip lorry to enter the building. The access doorway could be made larger, but not without structural alterations. However I am not convinced that altering the doorway would make the building convenient to be used as a base for your clients' business. It appears to me that the handling, stacking and storage of skips is an outdoor activity which generally may be carried out more efficiently outside than

inside. Skip lorries may also be as conveniently parked or stored outside as inside. I have carefully considered whether the subject use could be permitted subject to a condition restricting its operation to the covered yard. I have concluded however that such a condition would be impracticable and ought not to be imposed. The appeals on ground (a) will therefore fail.

23. Turning to the appeal on ground (h), you submit that the 3 months period for compliance allowed by Notice 'A' is not adequate for Mr Beasley to relocate his business. Nine months, you say, should be allowed because of the intrinsic difficulties involved. Mr Beasley says he has looked for new premises but has been unable to find any at a rent he can afford.

24. It appears to me that compliance with Notice 'A' would dictate that Mr Beasley could no longer operate his business from Barnhill Farm, and he would either have to relocate his business or cease trading. I can appreciate Mr Beasley's difficulty in finding affordable premises and I consider it desirable that he should have sufficient time to relocate so that any disruption to his business may be kept to a minimum. Six months would in my opinion be an adequate period for compliance and I propose to vary the notice accordingly.

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

#### FORMAL DECISION

The appeals by Mr and Mrs J Sims and Mr D Beasley against Notice 'A'  
referenced APP/C/90/J3910/000016, 17 and APP/C/90/J3910/000020

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

1. In the paragraph beginning NOTICE IS HEREBY GIVEN delete the word "THREE" in line three and insert "SIX".
2. In SCHEDULE 2 delete from lines 2 and 3 the following passage:- "for the tipping of subsoil and other materials".
3. In SCHEDULE 3 step (i) delete from line 1 and 2 the following passage:- "for the tipping of subsoil and other materials or"

Subject thereto I hereby dismiss these appeals, uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the Act.

The appeal by Mr D Beasley against Notice 'B'  
referenced APP/C/90/J3910/000018

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

1. In the paragraph beginning NOTICE IS HEREBY GIVEN insert a full-stop after the word breach in line 3, delete the remainder of the paragraph and substitute in its place:- "Steps (i) and (ii) shall be taken within the period of SIX MONTHS from the date on which this Notice takes effect and step (iii) shall be taken within the period of THREE MONTHS from the date on which this Notice takes effect."

2. IN SCHEDULE 3 insert a new step (iii) as follows:-

(iii) To cease the use of the land for the tipping of subsoil and other materials.

Subject thereto I dismiss this appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the Act.

RIGHT OF APPEAL AGAINST DECISION

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

I am Sir  
Your obedient Servant

*Robert H Town*

R H TOWN CEng MStructE MIHT  
Inspector

ENC

## APPEARANCES

### FOR THE APPELLANTS

Mr J Hill

- Planning Consultant

Gave evidence himself and  
also called:

Mr W G Singer FRICS

- Chartered Surveyor, Messrs  
Fielder & Jones, Agricultural  
Valuers and Auctioneers

Mr D Beasley

- One of the Appellants

### FOR THE PLANNING AUTHORITY

Miss R Hind

- Assistant Solicitor with the  
North Wiltshire District  
Council

Gave evidence herself and  
also called:

Mr D J Auld MA(Oxon) DipTP DMS MRTPI

- Assistant Chief Planning  
Officer with the North  
Wiltshire District Council

## DOCUMENTS

Document 1 - List of persons present at the inquiry.

Document 2 - Notification of the inquiry, dated 3 December 1990, and distribution list.

Document 3 - Appendices to Mr Singer's proof of evidence.

Document 4 - Draft conditions suggested by the Council.

## PLANS

Plan A - The plan attached to both Notices 'A' and 'B'.

Plan B - Plan showing the appeals site and surrounding area with the area tipped shown superimposed in pink colour (Drawing No MJ/145/101/A).

Plan C - Plan similar to Plan B but showing a building superimposed in pink colour (Drawing No MJ/145/101/B).

Plan D - Extract from the Definitive Map showing public footpaths in the vicinity of the appeals site.



# IMPORTANT -

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



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Reasons for issue:

1. The development constitutes isolated and sporadic development within open countryside which would be detrimental to the character of this area in particular and rural amenity in general, and would set a precedent for further similar undesirable proposals for commercial uses on this and adjacent land.
2. The use, and the tipping of waste materials in connection with the use, would detract from the amenity of the area and from the character of the countryside, in conflict with Policy E13 of the draft North Wiltshire Local Plan.

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

Land at and adjacent to Barnhill Farm, Bushton Road, Broad Town, 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 SIX 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 20th July 1990

ISSUED 13th June 1990

Signed

G C Bellamy

Monkton Park,  
Chippenham, SN15 1ER.

/ SCHEDULE 1 . . . . .

E586B

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land at and adjacent to Barnhill Farm, Bushton Road, Broad Town, Wiltshire, shown stipple-edged on the attached plan

SCHEDULE 2- ALLEGED BREACH OF PLANNING CONTROL

The tipping of subsoil and other materials on the land

SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- (i) To level and grade the tipped subsoil and other materials; and
- (ii) To restore the land by the spreading of topsoil to a depth of between 100mm and 150mm over the tipped subsoil and other materials, and the seeding of such topsoil with grass, sufficient to sustain the use of the land for pasture