

**ENFORCEMENT  
INFORMATION****REGISTER  
SHEET**plotted  
20.5.91Appealed  
28.2.92**E/** 624

APPEAL

yes

no

Plan's Ref

**ADDRESS**

LAND AT

1 THE BASSISTS

Box.

**BREACH of CONTROL****Issuing Authority**

Date Issued 28.3.91

**STOP NOTICES**

Date Served

Requiring



Date(s) served

28.3.91

Takes effect 9.5.91

Compliance by 9.7.91

Dates Extended by  
Secretary of State

Date withdrawn

**REQUIREMENTS of ENFORCEMENT**

1. To remove the said set of railings from the pitched parapet, and
2. To remove the said doorway and door opening onto the roof  
(in order to restore the dwelling to its former state)

**EXTENT to WHICH NOTICE COMPLIED WITH (dates)**

Unauthorised works consisting of :-

1. the erection of a set of approximately 50cm. high railings around the roof, on top of the pitched parapet of the recently constructed extension to the rear of the premises, and
  2. the construction of a doorway and insertion of a door opening onto the roof of the recently constructed extension to the rear of the premises
-

# 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. 598

Our  
Ref: **E** 624

Your  
Ref:

Enquiries to:  
Miss Hind

Dear Sir/Madam,

28th March 1991

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

Land at No. 1, The Bassetts, Box, 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 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 9th May 1991

To: Mr. Darrin J. Harris  
1 The Bassetts  
Box  
Wiltshire

Mrs. Susan Harris  
1 The Bassetts  
Box  
Wiltshire

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

Reasons for issue:-

1. The door opening onto the roof of the recently constructed extension to the rear of the property (not shown in the originally approved planning application) and the railings are not permitted by Class A of Article 3, Schedule 2 of the Town and Country Planning General Development Order 1988 ( as amended) because they "include an alteration" to part of the roof. They are not permitted by Classes B or C of the said Order because they are more than an "addition or alteration" to the roof.
2. The use of the roof of the recently constructed extension to the rear of the property as a balcony/sitting out area, by virtue of its size and position in relation to the neighbouring property, is considered to result in an adverse loss of general residential amenity in the locality, in particular, a loss of privacy for the adjoining neighbouring property. Additionally, such an unneighbourly development could set a poor precedent for other similar undesirable proposals and uses throughout the District.

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

Land at No. 1 The Bassetts, Box, 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 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 9th May 1991

ISSUED 28th March 1991

Signed

G.C. Betteridge  
DISTRICT SECRETARY

Monkton Park,  
Chippenham, SN15 1ER.

/ SCHEDULE 1 . . . . .

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land at No. 1, The Bassetts, Box, Wiltshire shown stipple-edged on the attached plan

SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

Unauthorised works consisting of :-

1. the erection of a set of approximately 50cm. high railings around the roof, on top of the pitched parapet of the recently constructed extension to the rear of the premises, and
2. the construction of a doorway and insertion of a door opening onto the roof of the recently constructed extension to the rear of the premises

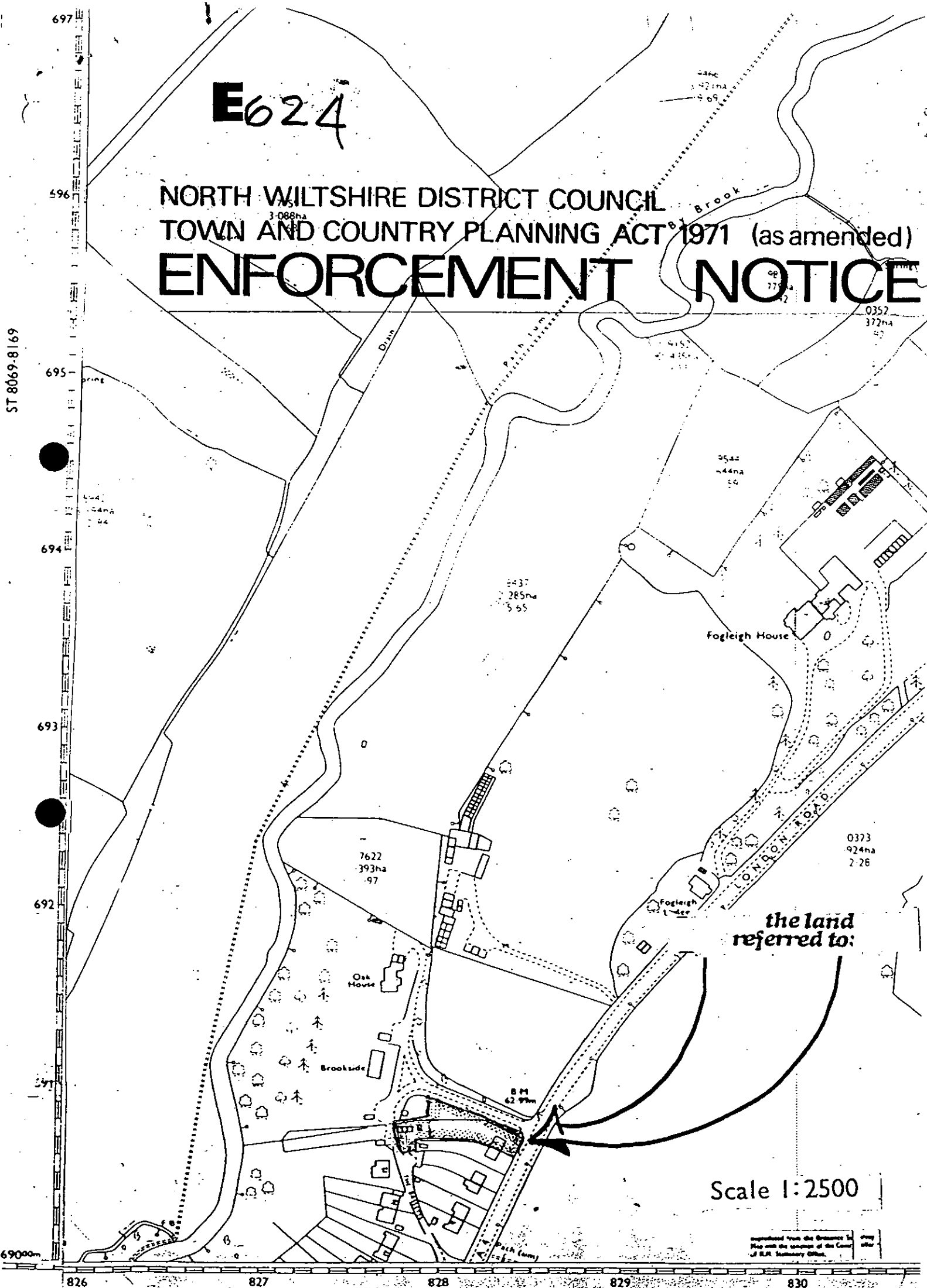
SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

1. To remove the said set of railings from the pitched parapet, and
  2. To remove the said doorway and door opening onto the roof
- (in order to restore the dwelling to its former state)

E624

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

ST 8069-8169



the land  
referred to:

Scale 1:2500

reproduced from the Ordnance Survey map with the sanction of the Council of R.M. Summary Office.

Margaret Scott

30 JAN 92



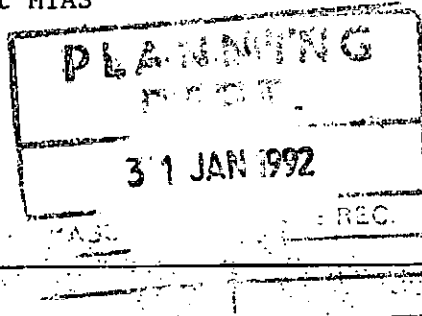
**Planning Inspectorate**  
Department of the Environment

Room 1120(7) Tollgate House Houlton Street Bristol BS2 9DJ

Fax 0272-218782  
Telex 0272-449321

Direct Line 0272-218731  
Enquiries 0272-218075  
GTN 1374

Stephen Kingshott MIAS  
38 New Road  
CHIPPENHAM  
Wiltshire  
SN15 1HL



Your Reference  
-  
Council Reference  
E.624  
Our Reference  
T/APP/C/91/J3910/608591

Date 28 JAN 92

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6  
APPEAL BY MR D J HARRIS  
LAND AND BUILDINGS AT NO.1 THE BASSETTS, BOX, WILTSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine your client's 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 and by the Council and Parish Council and also those made by interested persons. I inspected the site on 26 November 1991.

2. a. The date of the notice is 28 March 1991.

b. The breach of planning control alleged in the notice is unauthorised works consisting of: (1) the erection of a set of approximately 50cm high railings around the roof, on top of the pitched parapet of the recently constructed extension to the rear of the premises. and (2), the construction of a doorway and insertion of a door opening onto the roof of the recently constructed extension to the rear of the premises.

c. The requirements of the notice are: (1) to remove the said set of railings from the pitched parapet, and (2), to remove the said doorway and door opening onto the roof (in order to restore the dwelling to its former state).

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

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

3. Your client's property is a two-storey semi-detached house on the outskirts of Box. The ground floor walls are aslared stone and the first floor is housed in a pantiled mansard roof. There is a recent single storey rear extension to the property which runs the full width of the building. Planning permission for this extension was granted on 14 May 1990. Beyond this, there is a patio and the adjoining garden falls steeply away. The property lies within the Green Belt and the Cotswold Area of Outstanding Beauty (AONB). This part of the AONB was designated on 21 December 1990.



RECYCLED PAPER



4. The rear extension has a flat roof enclosed by a canted tiled parapet with a height above roof level of some 650mm. Fixed to the top of the parapet and ~~raising around 430mm above it~~, there is a set of galvanised metal railings consisting of two horizontal tubular 25mm diameter rails which are supported by similar diameter metal posts. The railings enclose the three open sides of the flat roof. The two first floor rooms facing the rear extension roof have window openings fitted in the slope of the rear mansard roof. A doorway has been formed in one of the two window openings by lowering the window sill to floor level and installing a glazed door with two narrow side lights. The door leads from the first floor room down two steps to the flat roof.

#### APPEAL ON GROUND (b)

5. The ground (b) cases put forward by you and the council entail the question of whether development has taken place, and if so, is the development permitted by the Town and Country Planning General Development Order 1988 (GDO). I shall examine these questions in turn in relation to the two allegations in the notice, namely, the door and the railings.

6. Section 55(2) of the Act lists operations and uses which do not involve development of land. The list includes the carrying out for the maintenance, improvement or other alteration of any building of any works which do not materially affect the external appearance of the building. I viewed the doorway and door from the garden and surrounding area and found that the lower half was not visible because it was hidden by the high parapet to the extension. However from the flat roof to the extension, I saw that the rear elevation of the roof had been materially altered by the removal of a section of tiling and that the new door was materially larger than the window it had replaced. In these circumstances, I consider that the new first floor opening and door are works of alteration to a building that do materially affect the external appearance of the building and which, by virtue of section 55(2) of the Act, do involve development.

7. The development of the door access to the roof entails an alteration to a roof which, in my view, does not enlarge the dwellinghouse. This type of roof alteration is the subject of Class C of Part 1 to Schedule 2 of the GDO. Such alterations are permitted development where they do not materially alter the shape of the dwellinghouse. Even though I have found that the alteration does affect the appearance of the property, I consider that it does not alter its outline, profile or shape. Accordingly it is development which is permitted by Class C of Part 1 to Schedule 2 to the GDO. Your client's appeal on ground (b) regarding the construction of a door therefore succeeds and the notice will be corrected to reflect this.

8. Turning to examine the effect of the railings on the external appearance of the building, I saw that they are a clearly visible addition to the ridgeline of the extension. I found the railings altered the side profile of the house, particularly where seen against the sky, and I consider that they materially alter the external appearance of the building. My view is that the erection of the railings alleged in schedule 2(1) to the notice is operational development and is not excluded from planning control by Section 55(2).

9. The next point to be addressed is which Class of Part 1 to Schedule 2 to the GDO does the development, namely the erection of railings on the parapet to the roof of the rear extension, fall to be considered under. Class A is directed towards the enlargement, improvement or other alteration of a dwellinghouse and specifically excludes at (h) development which consists of

or includes an alteration to any part of the roof. Roof alterations are dealt with in Classes B and C. Class B permits development which entails the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. I consider that the erection of the railings are an addition or alteration to the roof of your client's property but do they result in an enlargement to the dwellinghouse. Recently, in London Borough of Richmond on Thames v SSE and J Neale QBD 1991, it was held that enlargement in this Class of the GDO was a matter relating to external appearance rather than to an increase in floorspace or accommodation. I believe that, despite their skeletal structure, the railings do enlarge the external appearance of the rear of your client's house by materially altering its profile. I find therefore that the erection of the railings on the parapet should be considered under Class B of Part 1 to Schedule 2 of the GDO.

10. You accept that the cubic content of the rear extension exceeds the cubic content limits set by Class B. The intrinsic volume of the railings adds a small amount to the cubic content of the extension. This increase in size breaches the limitation set in Class B at B1(d). The railings are not therefore development which is permitted by the GDO and planning permission is required for their retention. I have also considered whether the recent designation of the locality as part of an AONB has a bearing on this matter. Since it seems most probable that the erection of the railings was completed during the summer or autumn of 1990, which was prior to the designation of the AONB in December 1990, then the appeal property did not lie within article 1(5) land when the breach occurred and this limitation in Class B does not therefore apply. Your client's ground (b) appeal relating the erection of railings fails.

#### APPEAL ON GROUND (a) AND DEEMED APPLICATION

11. The ground (a) appeal and deemed application fall to be considered in respect of the retention of the railings. The main issue to be considered is whether the retention of the railings would harm the amenities of neighbours in terms of privacy and overlooking.

12. At my visit I saw that the flat roof to the rear extension is quite large and allows views down into the adjoining garden and more particularly back towards the first floor windows of the adjoining house. The presence of the railings on three sides of the roof permits a secure use of the perimeter of the roof from where overlooking is most serious. The neighbours have written that they feel a loss of privacy from the use of the roof. In as much as the railings contribute to the safe use of the perimeter of the roof which in turn permits overlooking at close quarters of the neighbouring windows and garden, I consider that they should not be retained. I believe that their presence has led to a material reduction in the level of privacy experienced by the adjoining occupiers and I consider that planning permission should not be granted for their retention.

13. Your client's ground (a) appeal therefore fails in respect of the retention of the railings and the notice requiring their removal will be upheld.

#### APPEAL ON GROUND (h)

14. You seek additional time for your client to comply with the notice, particularly, in order to replace the door with a purpose-made window. The requirement to replace the door will not form part of the notice, as corrected and varied, and the requirements will be the removal of the railings only.

This is a relatively simple operation and I consider that the two month period does not fall short of what should be reasonably be allowed. The ground (h) appeal therefore fails.

15. I have taken account of the other matters raised but they do not override the main considerations leading to my decision.

#### FORMAL DECISION

16. For the above reasons, and in exercise of the powers transferred to me, I hereby:

i. direct that the notice be corrected and varied by the deletion of paragraph 2 from Schedules 2 and 3 of the notice.

Subject thereto, I hereby:

i. allow your client's appeal on ground (b) in respect of the construction of a doorway and insertion of a door opening onto the roof of the recently constructed extension to the rear of 1 The Bassetts, Box.

ii. dismiss your client's appeal, uphold the notice, as corrected and varied, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

#### RIGHT OF APPEAL AGAINST DECISION

17. This letter is issued as the determination of the appeal 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



J T GRIFFITHS MA(Arch) MSc RIBA MRTPI DMS  
Inspector  
ENCS

**IMPORTANT**

**THIS COMMUNICATION AFFECTS  
YOUR PROPERTY**

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

**PLANNING  
DEPT.**

**- 2 APR 1991**

Our  
Ref: **E** 624

Your  
Ref:

Enquiries to:

Miss Hind



**North Wiltshire  
District Council**

Monkton Park,  
Chippenham,  
Wiltshire, SN15 1ER.  
Tel. Chippenham (0249) 443322  
Ext. 598

Dear Sir/Madam,

28th March 1991

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

Land at No. 1, The Bassetts, Box, 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 ensure that the required steps for which you may be held responsible are taken within the period or periods specified in the Notice.

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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 9th May 1991

To: Mr. Darrin J. Harris  
1 The Bassetts  
Box  
Wiltshire

Mrs. Susan Harris  
1 The Bassetts  
Box  
Wiltshire

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

Reasons for issue:-

1. The door opening onto the roof of the recently constructed extension to the rear of the property (not shown in the originally approved planning application) and the railings are not permitted by Class A of Article 3, Schedule 2 of the Town and Country Planning General Development Order 1988 ( as amended) because they "include an alteration" to part of the roof. They are not permitted by Classes B or C of the said Order because they are more than an "addition or alteration" to the roof.
2. The use of the roof of the recently constructed extension to the rear of the property as a balcony/sitting out area, by virtue of its size and position in relation to the neighbouring property, is considered to result in an adverse loss of general residential amenity in the locality, in particular, a loss of privacy for the adjoining neighbouring property. Additionally, such an unneighbourly development could set a poor precedent for other similar undesirable proposals and uses throughout the District.

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

Land at No. 1 The Bassetts, Box, 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 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 9th May 1991

ISSUED 28th March 1991

Signed

G.C. Betteridge  
DISTRICT SECRETARY

Monkton Park,  
Chippenham, SN15 1ER.

/ SCHEDULE 1 . . . . .

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land at No. 1, The Bassetts, Box, Wiltshire shown stipple-edged on the attached plan

SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

Unauthorised works consisting of :-

1. the erection of a set of approximately 50cm. high railings around the roof, on top of the pitched parapet of the recently constructed extension to the rear of the premises, and
2. the construction of a doorway and insertion of a door opening onto the roof of the recently constructed extension to the rear of the premises

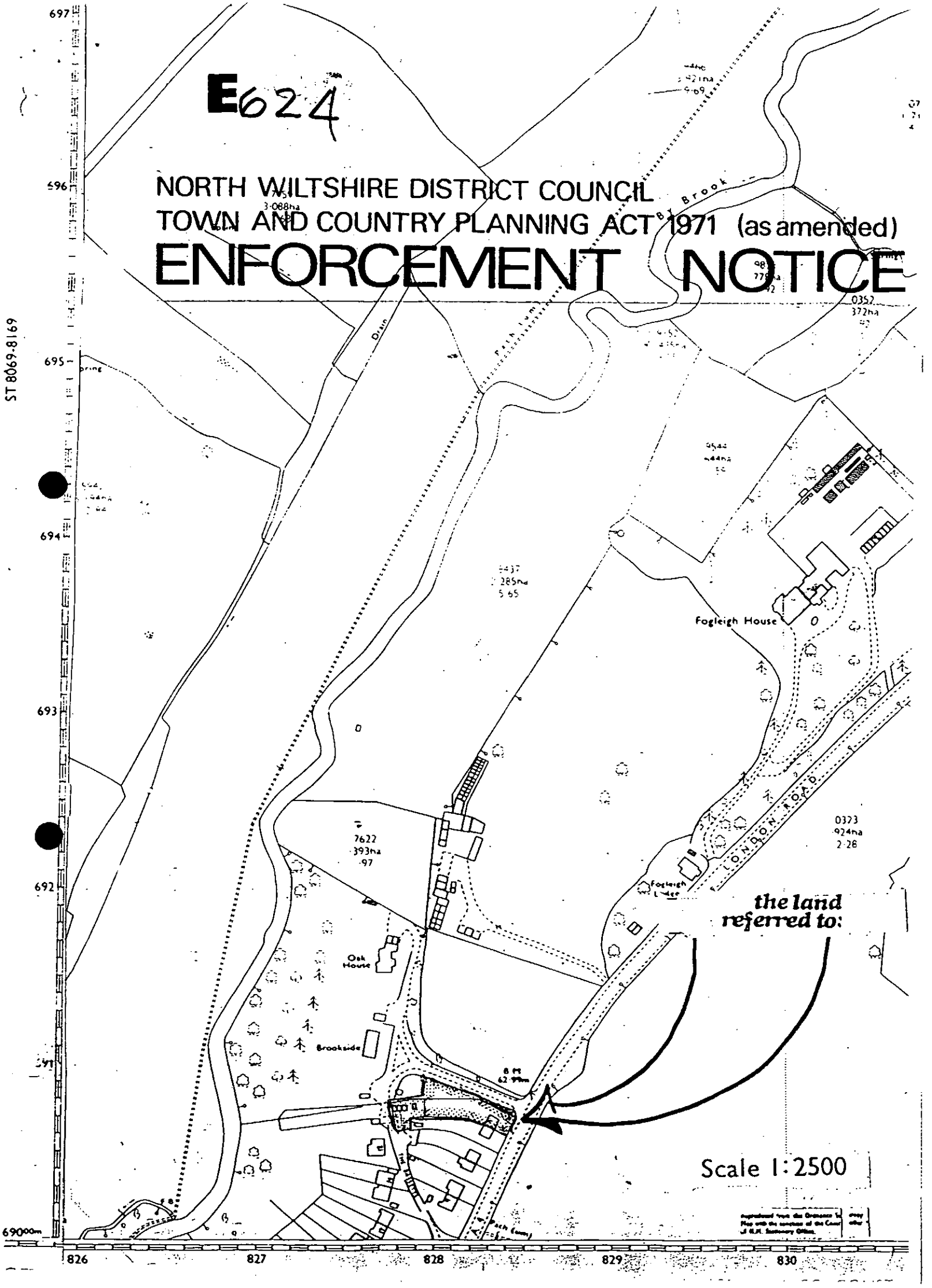
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E624

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

ST 8069-8169



the land  
referred to:

Scale 1:2500

Approved for the District Council  
Plan with the Secretary of the Council  
J.R. Secretary Office



# IMPORTANT

## THIS COMMUNICATION AFFECTS YOUR PROPERTY

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



*L. Buxton*  
(3)  
624  
**North Wiltshire  
District Council**

Monkton Park,  
Chippenham,  
Wiltshire. SN15 1ER.  
Tel. Chippenham (0249) 443322  
Ext. 598

Our **E** 624  
Ref:

Your  
Ref:

Enquiries to:  
Miss Hind

Dear Sir/Madam,

28th March 1991

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District Secretary

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To: Mr. Darrin J. Harris  
1 The Bassetts  
Box  
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Mrs. Susan Harris  
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1. The door opening onto the roof of the recently constructed extension to the rear of the property (not shown in the originally approved planning application) and the railings are not permitted by Class A of Article 3, Schedule 2 of the Town and Country Planning General Development Order 1988 (as amended) because they "include an alteration" to part of the roof. They are not permitted by Classes B or C of the said Order because they are more than an "addition or alteration" to the roof.
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Signed

G.C. Betteridge  
DISTRICT SECRETARY

Monkton Park,  
Chippenham, SN15 1ER.

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SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

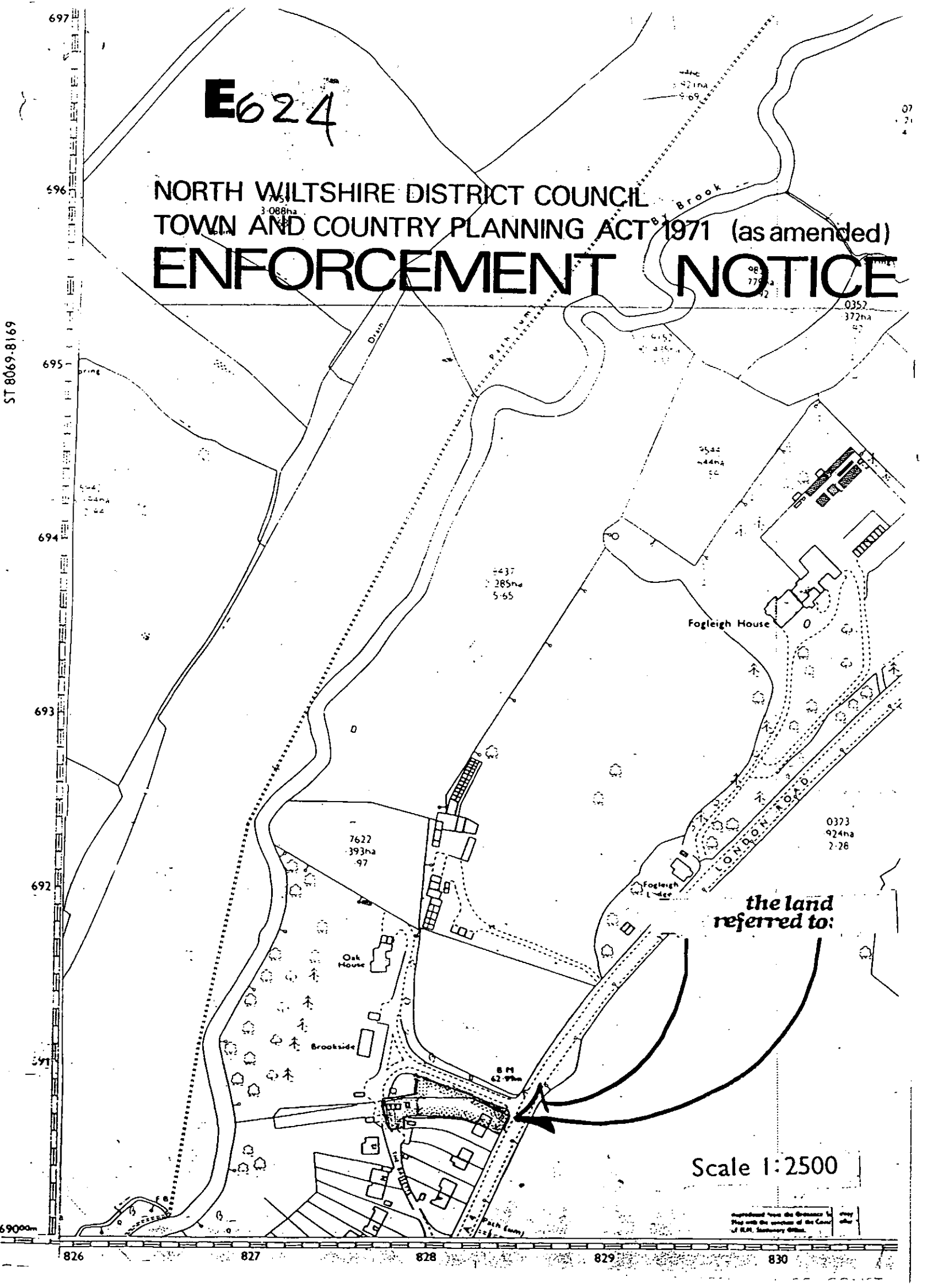
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(in order to restore the dwelling to its former state)

**E624**

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TOWN AND COUNTRY PLANNING ACT 1971 (as amended)  
ENFORCEMENT NOTICE**

ST 8069-8169



**the land referred to:**

**Scale 1:2500**

reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office.