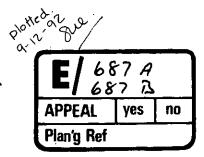
## NORTH WILTSHIRE DISTRICT COUNCIL

# **ENFORCEMENT** INFORMATION SHEET

# REGISTER



**ADDRESS** 

LAND AT CHURCH FINA TURNPIKS RS HJ J D 1-1 G TO-1

BREACH of CONTROL

SAN ATTACHUS NOSICA >

Issuing Authority

NW7C

STOP NOTICES

Date Served

Requiring



Date Issued 29.10.42

Date(s) served

29, 10.92

Takes effect 14.12.92

Compliance by 14.6.93

Dates Extended by Secretary of State

Date withdrawn

REQUIREMENTS of ENFORCEMENT

SAN ATTACHUL NOTICAL

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

## **IMPORTAN**

### THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

DX 34208 Fax (0249) 443152

tel: CHIPPENHAM (0249) 443322 ext: 598 Rachel Hind

North

NORTH WILTSHIRE DISTRICT COUNCIL Monkton Park, CHIPPENHAM, SN15 1ER

Dear Sir/Madam,

29th October 1992

# NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990

Land at Churchfield, Turnpike Road, Heddington, 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 Notice.

Yours faithfully,

District Secretary

DATE ON WHICH NOTICE TAKES EFFECT AND BEFORE WHICH ANY APPEAL MUST BE RECEIVED 14th December 1992

To: Mr. Nigel Anstee Jalna Stockley Road Heddington Wiltshire

Mrs. Jenifer W. Anstee Jalna Stockley Road Heddington Wiltshire

### NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990

# ENFORCEMENT NOTICE

land at Churchfield, Turnpike Road, Heddington, Wiltshire

#### WHEREAS:

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 172 of the Town and Country Planning Act 1990 ("the Act") in this matter, that there has been a breach of planning control within the last ten years on the land or premises ("the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the carrying out of development by the making of the material change in the use of the land described in Schedule 2 below, without the grant of planning permission required for that development.
- (3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said Section 172, for the reasons set out below.

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 175(4) of the Act, on 14th December 1992

ISSUED 29th October 1992

Signed G.C. Beltsing.

Monkton Park, Chippenham, SN15 1ER. DISTRICT SECRETARY

/ SCHEDULE 1 . . . . . .

(over)

ENFuse1

Land at Churchfield, Turnpike Road, Heddington shown stippled on the attached plan

#### SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

The making of a material change in the use of the land from use for agriculture to a continuing use for that purpose, and in addition, use in connection with the operation of a Land Drainage Contractor's Business by the storage of building and other materials, plant, machinery and vehicles associated with that business

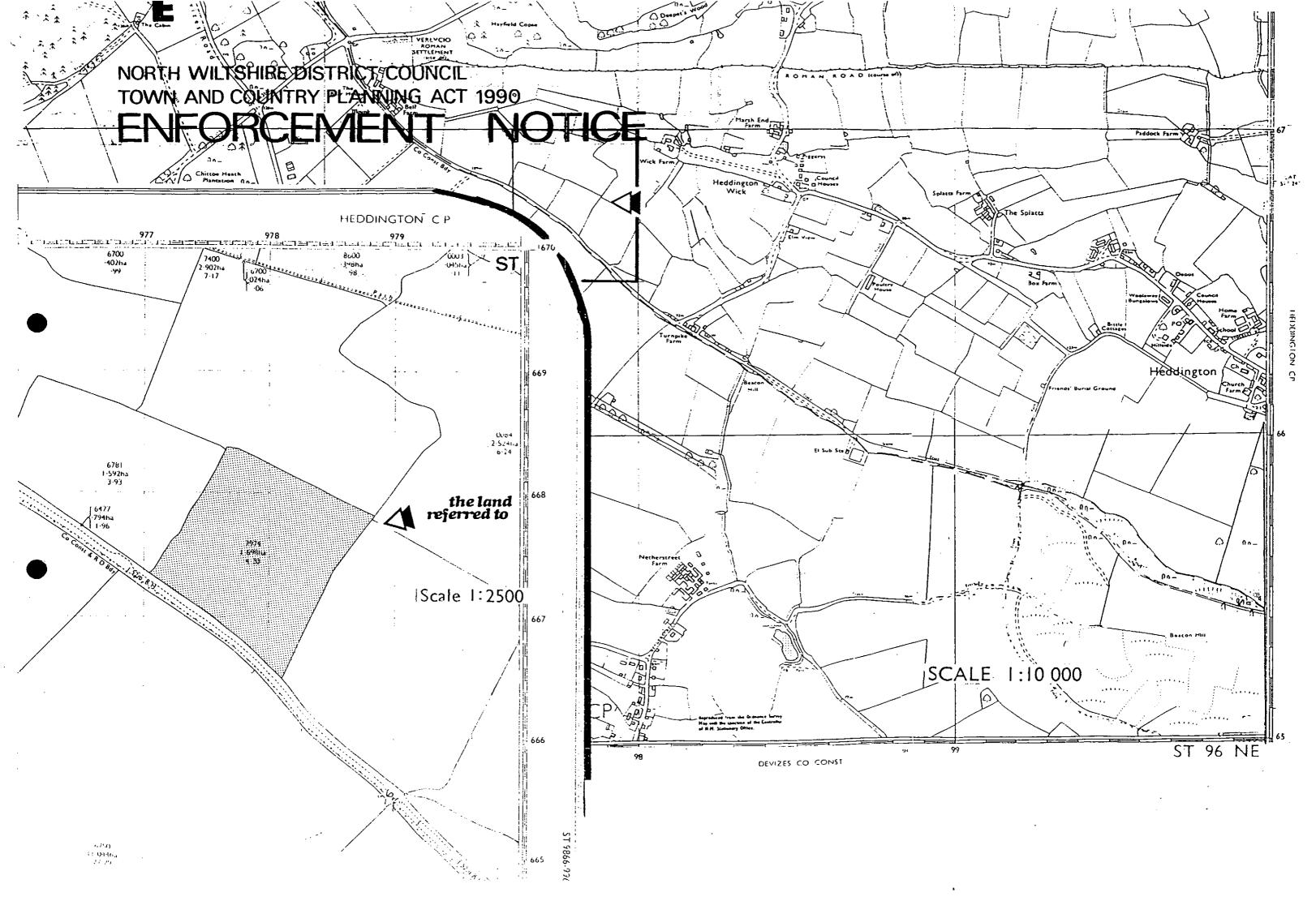
#### SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- To cease the use of the land in connection with the operation of a Land Drainage Contractor's business
- 2. To cease the use of the land for the storage of building and other materials, plant, machinery and vehicles associated with such a business
- 3. To remove from the land the said building and other materials, plant, machinery and vehicles

#### STATEMENT OF REASONS WHY THE LOCAL AUTHORITY CONSIDER IT EXPEDIENT TO ISSUE THIS NOTICE

The us of the land in connection with the operation of a Land Drainage Contractor's Business constitutes a material change of use from agriculture to industrial and storage uses which require planning permission. The unauthorised use is inappropriate within the countryside, has a detrimental effect on the character and appearance of this rural area and is contrary to Policy E15 of the deposited North Wiltshire Local Plan which states:

- IN THE COUNTRYSIDE, OUTSIDE THE FRAMEWORK AND PHYSICAL LIMITS OF A SETTLEMENT AS DEFINED ON THE PROPOSALS MAP, THE CONSTRUCTION OF NEW BUILDINGS OR THE USE OF LAND! FOR EMPLOYMENT PURPOSES WILL NOT NORMALLY BE PERMITTED EXCEPT:
  - 1. IN OR ADJACENT TO VILLAGES IN ACCORDANCE WITH POLICY E14;
  - 2. IN CONNECTION WITH MINERAL WORKINGS: OR
  - 3. THE CHANGE OF USE OF BUILDINGS IN ACCORDANCE WITH POLICY E16



## IMPORTANT -

# THIS COMMUNICATION AFFECTS YOUR PROPERTY

District Secretary's Department,
G.C. Bettendge, U.B. (Solicitor), District Secretary

DX 34208 Fax (0249) 443152

tel: CHIPPENHAM (0249) 443322 ext: 598

8 Rachel Hind

North Wiltshire

NORTH WILTSHIRE DISTRICT COUNCIL Monkton Park, CHIPPENHAM, SN15 1ER

29th October 1992

Dear Sir/Madam.

# NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990 FNFORCEMENT NOTICE

Land at Churchfield, Turnpike Road, Heddington, 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 yoù 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 Notice.

Yours faithfully,

G.C. Betteize.

DATE ON WHICH NOTICE TAKES EFFECT AND BEFORE WHICH ANY APPEAL MUST BE RECEIVED 14th December 1992

To: Mr. Nigel Anstee
Jalna
Stockley Road
Heddington

Wiltshire

Mrs. Jenifer W. Anstee Jalna Stockley Road Heddington Wiltshire



# NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990 ENFORCEMENT NOTICE

<b>_</b>		

Land at Churchfield, Turnpike Road, Heddington, Wiltshire

#### WHEREAS :

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 172 of the Town and Country Planning Act 1990 ("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 172, for the reasons set out below.

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 175(4) of the Act, on 14th December 1992

ISSUED 29th October 1992

Signed C.C. Secretary

Monkton Park, Chippenham, SN15 lER.

/ SCHEDULE 1 . . . . .

(over)

Land at Churchfield, Turnpike Road, Heddington shown stippled on the attached plan

#### SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

- 1. The construction of an open-fronted steel framed building clad in metal profiled sheeting with blockwork plinth and store
- 2. The construction of two concrete blockwork bays
- 3. The siting of an oil tank and two concrete block supports adjacent to the building referred to in 1 above
- 4. The laying of hardcore to form:-
  - (i) a track approximately 6 metres wide leading from the highway, namely the C247 a Class III road, across the field, shown stippled on the attached plan, as far as the north eastern corner of that field, and
  - (ii) an area of hardstanding measuring approximately 35 metres by 35 metres in the north eastern corner of the field.

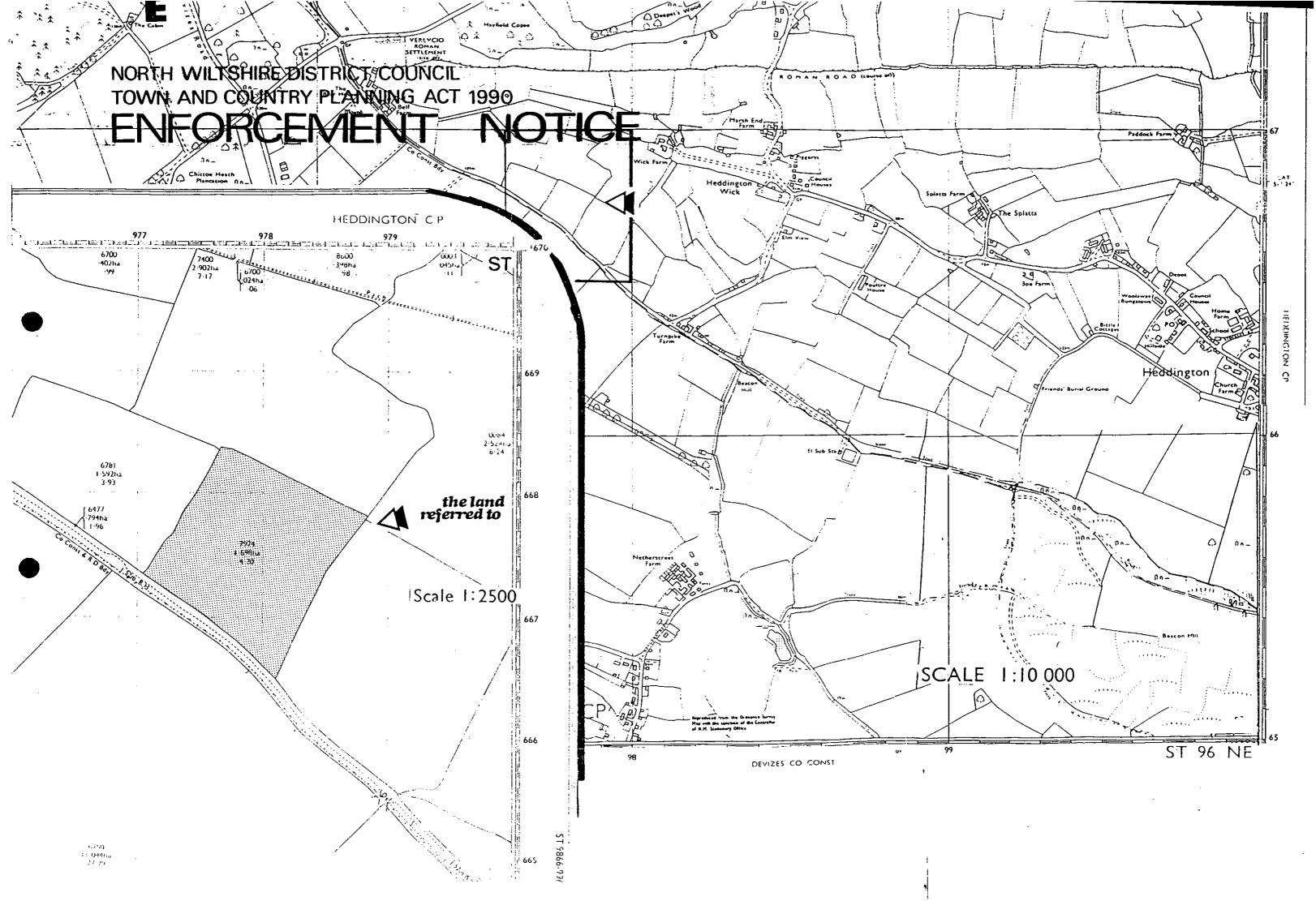
#### SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- 1. To remove the building from the land
- 2. To remove the two blockwork bays from the land
- 3. To dismantle and remove the oil tank and concrete block supports from the land
- 4. To remove the hardcore materials forming the track and hardstanding area (referred to in paragraphs 4(i) and (ii) in Schedule 2 above) from the land
- 5. To restore the land to the condition it was in immediately prior to the development referred to in Schedule 2 above taking place by reforming a level surface with topsoil to a depth of not less than 100mm. sufficient to sustain the use of the land for agriculture.

#### STATEMENT OF REASONS WHY THE LOCAL AUTHORITY CONSIDER IT EXPEDIENT TO ISSUE THIS NOTICE

The building and engineering operations on this site require planning permission as they are not used nor reasonably necessary for the purposes of agriculture within this agricultural unit, which comprises a single field of some 1.698 hectares (4.2acres) The development is considered to be inappropriate on this site within open countryside as there is no essential agricultural need for the building and other operations on this site, which have a detrimental effect on the character and appearance of this rural area and are contrary to Policy E15 of the deposited North Wiltshire Local Plan which states:-

- E15 IN THE COUNTRYSIDE, OUTSIDE THE FRAMEWORK AND PHYSICAL LIMITS
  OF A SETTLEMENT AS DEFINED ON THE PROPOSALS MAP, THE CONSTRUCTION
  OF NEW BUILDINGS OR THE USE OF LAND FOR EMPLOYMENT PURPOSES WILL
  NOT NORMALLY BE PERMITTED EXCEPT:
  - 1. IN OR ADJACENT TO VILLAGES IN ACCORDANCE WITH POLICY E14;
  - 2. IN CONNECTION WITH MINERAL WORKINGS: OR
  - 3. THE CHANGE OF USE OF BUILDINGS IN ACCORDANCE WITH POLICY E16



## IMPORTAN

## THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

**DX** 34208 Fax (0249) 443152

tel: CHIPPENHAM (0249) 443322 ext: 598

Rachel Hind

North.

NORTH WILTSHIRE DISTRICT COUNCIL Monkton Park, CHIPPENHAM, SN15 1ER

29th October 1992

Dear Sir/Madam.

## NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990

Land at Churchfield, Turnpike Road, Heddington, Wiltshire

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Yours faithfully,

G.C. Betterogo. District Secretary

DATE ON WHICH NOTICE TAKES EFFECT AND BEFORE WHICH ANY APPEAL MUST BE RECEIVED 14th December 1992

To: Mr. Nigel Anstee Jalna Stockley Road Heddington Wiltshire

Mrs. Jenifer W. Anstee Stockley Road Heddington Wiltshire



# NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990 ENFORCEMENT NOTICE

Land at Churchfield, Turnpike Road, Heddington, Wiltshire

#### WHEREAS:

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 172 of the Town and Country Planning Act 1990 ("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.
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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 SIX MONTHS from the date on which this Notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 175(4) of the Act, on \_\_\_\_\_14th December 1992\_\_\_\_\_\_

ISSUED 29th October 1992

Signed

s C. Serbiespo

DISTRICT SECRETARY

Monkton Park, Chippenham, SN15 1ER.

/ SCHEDULE 1 . . . . .

(over)

Land at Churchfield, Turnpike Road, Heddington shown stippled on the attached plan

#### SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

- 1. The construction of an open-fronted steel framed building clad in metal profiled sheeting with blockwork plinth and store
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  - (ii) an area of hardstanding measuring approximately 35 metres by 35 metres in the north eastern corner of the field.

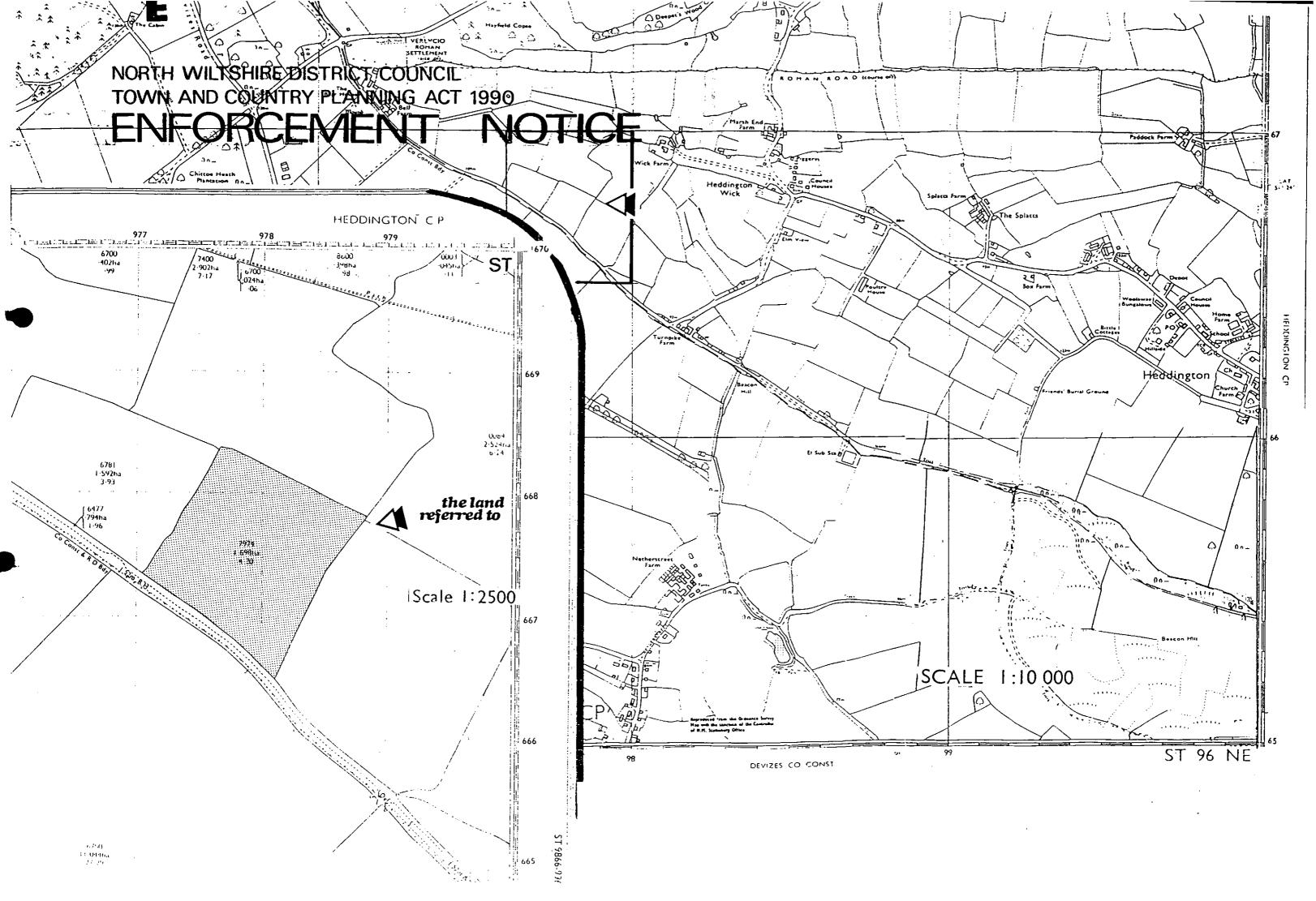
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#### STATEMENT OF REASONS WHY THE LOCAL AUTHORITY CONSIDER IT EXPEDIENT TO ISSUE THIS NOTICE

The building and engineering operations on this site require planning permission as they are not used nor reasonably necessary for the purposes of agriculture within this agricultural unit, which comprises a single field of some 1.698 hectares (4.2acres) The development is considered to be inappropriate on this site within open countryside as there is no essential agricultural need for the building and other operations on this site, which have a detrimental effect on the character and appearance of this rural area and are contrary to Policy E15 of the deposited North Wiltshire Local Plan which states:—

- E15 IN THE COUNTRYSIDE, OUTSIDE THE FRAMEWORK AND PHYSICAL LIMITS
  OF A SETTLEMENT AS DEFINED ON THE PROPOSALS MAP, THE CONSTRUCTION
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M. Scou



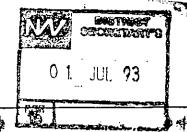
## The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office 6 JUL 1793

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ Direct Line Switchboard Fax No GTN 0272-218731 0272-218811 0272-218769 1374

Mr R E O Mackay FRICS ACIArb

Nunton Cottage Nunton Salisbury Wiltshire SP5 4HW



Council Reference: E/687A Our Reference: T/APP/C/92/J3910/626124/P6 T/APP/C/92/J3910/626125/P6 Date:

*130 Ju*n 93

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEALS BY MR N ANSTEE AND MRS J ANSTEE
LAND AND BUILDINGS AT CHURCHFIELD, TURNPIKE ROAD, HEDDINGTON, WILTSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine your clients' appeals against an enforcement notice issued by the North Wiltshire District Council concerning the above mentioned land and buildings. I held an inquiry into the appeals on 11 May 1993.

#### THE NOTICE

- 2. (1) The notice was issued on 29 October 1992.
- (2) The breach of planning control as alleged in the notice is the making of a material change in the use of the land from use for agriculture to a continuing use for that purpose, and in addition, use in connection with the operation of a land drainage contractor's business by the storage of building and other materials, plant, machinery and vehicles associated with that business.
  - (3) The requirements of the notice are:-
- (i) To cease the use of the land in connection with the operation of a land drainage contractor's business;
- (ii) To cease the use of the land for the storage of building and other materials, plant, machinery and vehicles associated with that business;
- (iii) To remove from the land the said building and other materials, plant, machinery and vehicles.
  - (4) The period for compliance with these requirement is six months.



- 3. Your clients' appeals are proceeding on grounds (a), (c), (f) and (g) as set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991, that is to say:
- (a) that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted;
- (c) that the matters stated in the notice, if they occurred, do not constitute a breach of planning control;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated in the notice or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should be reasonably allowed.

The appeal on ground (b) was withdrawn during the inquiry.

#### SITE DESCRIPTION AND BACKGROUND TO THE APPEALS

- The field in which the storage is taking place lies in open countryside to the west of the village of Heddington. The field, which extends to some 1.7 hectares (4.2 acres), rises from the north-eastern side of Turnpike Road. In the eastern corner is a building about 5 m high, with a floor area of about 360 sq metres, which is clad in green coloured metal sheeting. The main part of the building was erected in 1988 and a rear lean-to was added in 1991. The south-east and north-west elevations are open-sided, apart from a section of the lean-to which is enclosed with blockwork. Access is gained via a track some 5 m wide, which skirts the south-eastern edge of the field. There is a hard standing area around all sides of the building, and two concrete bunkers to hold building materials are located close to the south-eastern boundary of the field. The remainder of the field is grassed. A hay crop is taken once a year, which is stored in the building along with the land drainage plant and machinery, and the field is subsequently used for grazing. Trees have been planted along the road frontage, along the access track, and also along the south-western edge of the hard standing area, between the building and the road.
- Two separate enforcement notices were served, but one which required the removal of the existing building was withdrawn on 8 April 1993 as the Council accepted evidence that the main part of the building had been constructed more than four years before the service of the notice and was therefore immune form enforcement action. Before this notice was withdrawn a planning application to change the use of the existing building to Class Bl and to erect a new building for workshop, office and storage use was submitted to and refused by the Council. A hearing into the subsequent appeal was conducted on 12 January 1993, and the Inspector's decision letter dismissing the appeal was issued on 26 January (Ref: T/APP/J3910/A/92/213158/P4 - Document 7, Appendix 3). proposal involved the re-location of the business from Jalna, your clients' home in Heddington, which currently houses a small office, with a workshop and vehicle storage area to the rear, where the low-loader used to transport the heavy plant is kept. These uses have been carried out for more than 10 years and the Council accepts that they are immune from enforcement action. Whereas at the time of the hearing in January it was Mr Anstee's intention to relocate

the entire business away from his home he is now seeking to use the existing building and hardstanding areas and does not propose any further development at the Churchfield site.

- 6. The appeals on ground (c) It was argued on behalf of the appellants that the activity carried out by Mr Anstee is an agricultural activity, in that all the land drainage work that he carries out takes place on agricultural land. It was maintained that land drainage is an activity often carried out by a farmer on his own land, as part of his farming activity, and the fact that Mr Anstee carries out the same activity on farms under contract does not mean that the activity is any less agricultural.
- 7. The Council argued that the storage of plant, machinery and materials which are not used in connection with the agricultural use of the field, is not an agricultural use. In my view, whereas on a very large farm similar equipment might be owned by the farmer and used for drainage work on the holding, in this case the storage, (except for the hay and possibly one tractor and trailer), is wholly unconnected with the agricultural use of the land. The rest of the equipment and materials are used for land drainage operations on other sites within a 75 mile radius; your clients accept that no further drainage work is necessary at Churchfield as it has already been fully underdrained.
- 8. The appellants' advocate was not able to refer to any cases involving land drainage works, but referred to three other cases in support of his argument. These were Borough of Restormel v. SSE and Raby (QBD June 14 1992: 1982 JPEL 785), Wealden District Council v. SSE and Colin Day (CA December 7, 1987: 1988 JPEL 268), and North Warwickshire Borough Council v. SSE and Amrik Singh Gill (QBD December 21, 1983: 1984 JPEL 436). However, I find that none of these cases support the contention that the use is agricultural. Even if it was, the use does not relate to the holding on which it is located. The use is for the storage of building and other materials, plant, machinery, and vehicles associated with a land drainage contractor's business. I conclude that the activity that is being carried out on the appeal site is a storage use unconnected with the agricultural use of the land. This is a material change of use which constitutes a breach of planning control, and the appeals on ground (c) therefore fail.
- 9. The appeals on ground (a) It was argued on behalf of the appellants that the ground (a) appeals were not a "re-run" of the Section 78 appeal that had been dismissed in January 1993. Circumstances had changed significantly since that decision in that at that time it was understood that the existing building on the site might be removed if the now withdrawn enforcement notice was upheld. As the Council had since withdrawn that notice, the building would stay, and any consideration of the landscape impact of the proposal should be confined to the impact of the use rather than the presence of the building. The policy background to the ground (a) appeals was also different in that the issue was now the re-use of an existing building, rather than the retention of an unauthorised building together with the erection of a second one to be used as a workshop, office and store.
- 10. From my inspection of the appeal site and the surrounding area and from the representations made in writing and at the inquiry I consider that the main issue in determining these appeals is whether, in the context of development plan policy, the use of the site for a land drainage contractor's business would be an acceptable use of an existing building in the country-side.

- The development plan for the area comprises the approved Western Wiltshire Structure Plan and the draft North Wiltshire Local Plan. The latter plan is close to adoption and its policies therefore carry considerable weight. Both plans contain policies which, consistent with government policy, broadly aim to encourage employment in the countryside whilst permitting only such commercial development in the open countryside that would be compatible with its protection. Policy E15 of the local plan states that in the countryside the construction of new buildings or the use of land for employment purposes will not normally be permitted except, inter alia, in or adjacent to villages, or where the change of use of a building is involved in accordance with Policy El6. Policy El6 states that in the countryside, the change of use of buildings to use for employment purposes will normally be permitted provided that access and services are satisfactory, the form, bulk, and general design of the buildings are in keeping with their surroundings, the proposals will not detract from the amenities of the locality and the character of the countryside, and the proposal respects local building styles and materials.
- 12. Whereas at the time of the Section 78 appeal it was proposed to locate the whole of the business at Churchfield it is now Mr Anstee's intention to retain the office and maintenance facility at his home. He wishes to retain the storage facility at Churchfield as it is close to his present centre of operations. He is reluctant to move to an industrial estate as suggested by the Council, as this would bring heavy traffic onto urban roads, and would possibility involve drainage problems when muddy vehicles were hosed down. I see no reason why vehicles could not be hosed down on the farm on which they had been used. Although I am not convinced that the business could not be successfully run from an industrial estate, the aim of Policy El6 is to improve employment opportunities in the countryside, and whether the proposal to use the building complies with this policy is the appropriate test in my view.
- With regard to the first criteria of Policy El6, at the hearing on 12 January 1993 evidence on the highway impact of the proposal then under consideration was given by a representative of Wiltshire County Council. The Inspector concluded that highway considerations were insufficient to justify the refusal of planning permission, although they added weight to his decision to dismiss the appeal on other grounds. The Council has brought no new highway evidence to this inquiry, although the Council's planning witness included the statement made by the highway witness at the hearing in the appendices to his proof of evidence to this inquiry. The only differences in circumstances are that the deemed application would involve less traffic, as no office or workshop uses were being requested, and what was described on behalf of the appellant as "road widening" had taken place on the C247. However, I saw on my visit that this amounted to nothing more than routine maintenance to restore the edge of the road where it had been subject to encroachment of soil. The highway reasons for refusal were candidly described by the Council's advocate as a "makeweight", and I agree with the previous inspector that there is insufficient evidence of harm to highway safety to justify refusal of the deemed application on these grounds.
- 14. The building is utilitarian in appearance, but in terms of its form, bulk and general design it is similar to many other purpose built agricultural buildings in the locality. In my view it is fairly unobtrusive in the landscape, and does not draw attention to itself. There can be no requirement for the building to be removed, and in my view it is likely to remain whether or not the notice requiring the cessation of the use is upheld, and its visual impact in the landscape is not, therefore, an issue before me. The assessment of the visual impact of the proposal therefore turns upon the extent to which the use can be confined within the building, and the views into the open-sided

building from public vantage points. Apart from what I saw on my visit, I have seen the photographs of the site taken by the Council when the trees were not in leaf. The south elevation of the building can be seen from Turnpike Lane, and there is an oblique view into the open (eastern) side of the building along the access. Provided that storage only takes place within the building and not on the hardstanding areas or elsewhere in the field, and that parking of staff and visitors vehicles is confined to the rear of the building, I consider that the visual impact of the development would not be harmful to the appearance of the countryside. Para 3.20 of the draft local plan highlights the pitfalls of accepting commercial uses in rural locations, in terms of pressure for extensions, signs, etc, but with regard to the latter point, as the proposed use is for storage of valuable plant and machinery, it is unlikely that there would be any intrusive advertising that might draw attention to its presence.

- 15. In my view the imposition of suitable conditions would render the proposal an acceptable use of an existing building. In addition to the conditions to which I have already referred, the Council has also suggested the restriction of "permitted development" rights for extensions, and I consider such a limitation would be appropriate, in order for the Council to retain control over any future extensions. The use should be restricted to that which is the subject of the deemed application to ensure that any more intensive storage use, which might for example generate more traffic, is subject to control. I do not consider that a landscaping condition is necessary, as appropriate planting has already been carried out along the road frontage, and within the site. Subject to these conditions I conclude that the use would not be intrusive or damaging to the countryside, and the appeals on ground (a) succeed. There is therefore no need for me to consider the appeals on grounds (f) and (g).
- 16. I have also taken into account all the other matters raised at the inquiry and in the representations but none of them are of sufficient importance to lead me to any other conclusion than the one I have reached.

#### Variations to the notice

17. The plan attached to the notice relates to the whole of the 1.7 hectare field, and if I was to grant planning permission on the whole of this area the local planning authority might encounter difficulties in confining the use to that part of the field which is already used for commercial storage purposes. I therefore intent to vary the notice to draw a distinction between the area occupied by the access, the building and the hardstanding areas, and the remainder of the field which is used for agricultural purposes. A plan indicating these two separate areas is attached to this decision letter. I propose to grant planning permission on the deemed application in relation to the area hatched black on the plan, and to uphold the notice in relation to the stippled area.

#### FORMAL DECISION

- 18. For the above reasons, and in exercise of the powers transferred to me, I hereby determine this appeal as follows:
- (i) I allow the appeals on ground (a) insofar as they relate to the land shown hatched black on the plan annexed to this letter and grant planning permission on the application deemed to have been made under S177(5) of the amended Act, for the use of that land for use in connection with the operation of a land drainage contractor's business by the storage of builders and other materials, plant, machinery and vehicles associated with that business, subject to the following conditions:-

- 1. No materials, plant, machinery or vehicles shall be stored or parked outside any building on the site without the prior approval in writing of the local planning authority, with the exception of building materials stored in the existing bunkers, and cars parked on the hardstanding on the north-east side of the building.
- 2. The site shall be used for storage purposes in connection with a land drainage contractor's business only, and for no other purpose, including any other use falling within Class B8 of the Town and Country (Use Classes) Order 1987, without the grant of planning permission in that behalf.
- 3. Notwithstanding the provisions of Class A of Part 8 of Schedule 2 of the Town and Country Planning General Development Order 1988, as amended, no extensions to the building shall be erected without the prior written consent of the Local Planning Authority.
- (ii) I vary the enforcement notice by the addition of the words "and hatched black" after the word "stippled" in Schedule 1 and by the substitution of the plan attached to this letter for the plan attached to the notice.
- (iii) I dismiss the appeal and uphold the enforcement notice as varied, insofar as it relates to the land shown stippled and lying outside the black hatching on the plan annexed to this letter, and refuse to grant planning permission, in respect of that land, on the application deemed to have been made as aforesaid.
- 19. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to Secretary of State if consent, agreement or approval is refused, or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.
- 20. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

RIGHTS OF APPEAL AGAINST DECISION

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

Yours faithfully

David Harrison BA Diptp MRTPI

Inspector

#### APPEARANCES

#### FOR THE APPELLANT

Mr D Hope

 of counsel, instructed by Mr R E O Mackay FRICS ACIArb

He called:

Mr R E O Mackay, FRICS ACIArb

- Chartered Surveyor, Nunton, Salisbury.

#### FOR THE PLANNING AUTHORITY

Mr J F McDonald

He called:

- Solicitor with North Wiltshire District Council.

Mr S Chambers BSc MA MRTPI

- Planning Officer with North Wiltshire District Council.

#### INTERESTED PERSONS

Mrs M Harris

- District Council Member for Calne Without, speaking as a District Councillor in support of Mr Anstee and not on behalf of the Council. 1 Nestleton Close, Calne, Wilts, SN11 OAN.

Mr R S Money-Kyrle

- Whettham Farmhouse, Calne, Wilts, SN11 OPU.

Mrs I Gage

- Hicksfield, The Common, Heddington.

#### DOCUMENTS

Document 1 List of persons present at the inquiry.

Document 2 Council's letter publicising inquiry with list of addressees.

Document 3 Two letters in response to 2 above.

Document 4 Letter from the Rural Development Commission dated 21 April 1993.

Document 5 Letter from Heddington Parish Council dated 9 January 1993 with addendum by I G K Alexander dated 11 May 1993.

Document 6 Appendices 1-7 to Mr Mackay's proof.

Document 7 Appendices to Mr Chambers' proof.

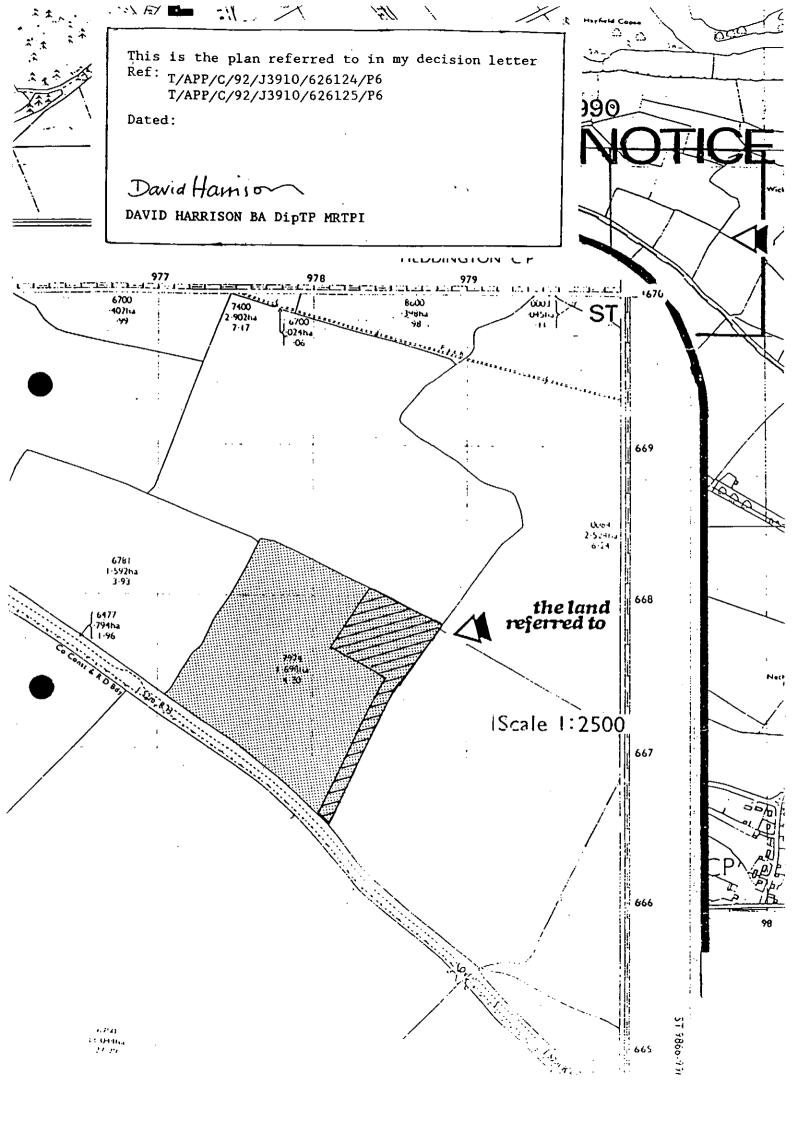
Document 8 Extract from version of the North Wiltshire Local Plan that the Council is disposed to adopt (Policy El6).

#### PLANS

Plan A Enforcement Notice plan.

#### **PHOTOGRAPHS**

Photograph Pl Set of photographs submitted by Mr Chambers.



## THIS COMMUNICATION AFFECTS YOUR PROPERTY

IMPORTANT -

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

687A DX 34208 Fax (0249) 443152 tel: CHIPPENHAM (0249) 443322 ext: 598 Rachel Hind North

NORTH WILTSHIRE DISTRICT COUNCIL Monkton Park, CHIPPENHAM, SN15 1ER

Dear Sir/Madam,

29th October 1992

## NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990

## FN/IFNI

Land at Churchfield, Turnpike Road, Heddington, 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 yoù 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 Notice.

Yours faithfully.

District Secretary

DATE ON WHICH NOTICE TAKES EFFECT AND BEFORE WHICH ANY APPEAL MUST BE RECEIVED 14th December 1992

To: Mr. Nigel Anstee Jalna Stockley Road Heddington Wiltshire

Mrs. Jenifer W. Anstee Stockley Road Heddington

Wiltshire

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# NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990 ENFORCEMENT NOTICE

land at Churchfield, Turnpike Road, Heddington, Wiltshire

#### WHEREAS:

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 172 of the Town and Country Planning Act 1990 ("the Act") in this matter, that there has been a breach of planning control within the last ten years on the land or premises ("the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the carrying out of development by the making of the material change in the use of the land described in Schedule 2 below, without the grant of planning permission required for that development.
- (3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said Section 172, for the reasons set out below.

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 175(4) of the Act, on \_\_\_\_\_\_14th December 1992

ISSUED 29th October 1992

Signed G.C. Belle: 350

Monkton Park, Chippenham, SN15 1ER. DISTRICT SECRETARY

/ SCHEDULE 1 . . . . . .

(over)

**ENfuse1** 

Land at Churchfield, Turnpike Road, Heddington shown stippled on the attached plan

#### SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

The making of a material change in the use of the land from use for agriculture to a continuing use for that purpose, and in addition, use in connection with the operation of a Land Drainage Contractor's Business by the storage of building and other materials, plant, machinery and vehicles associated with that business

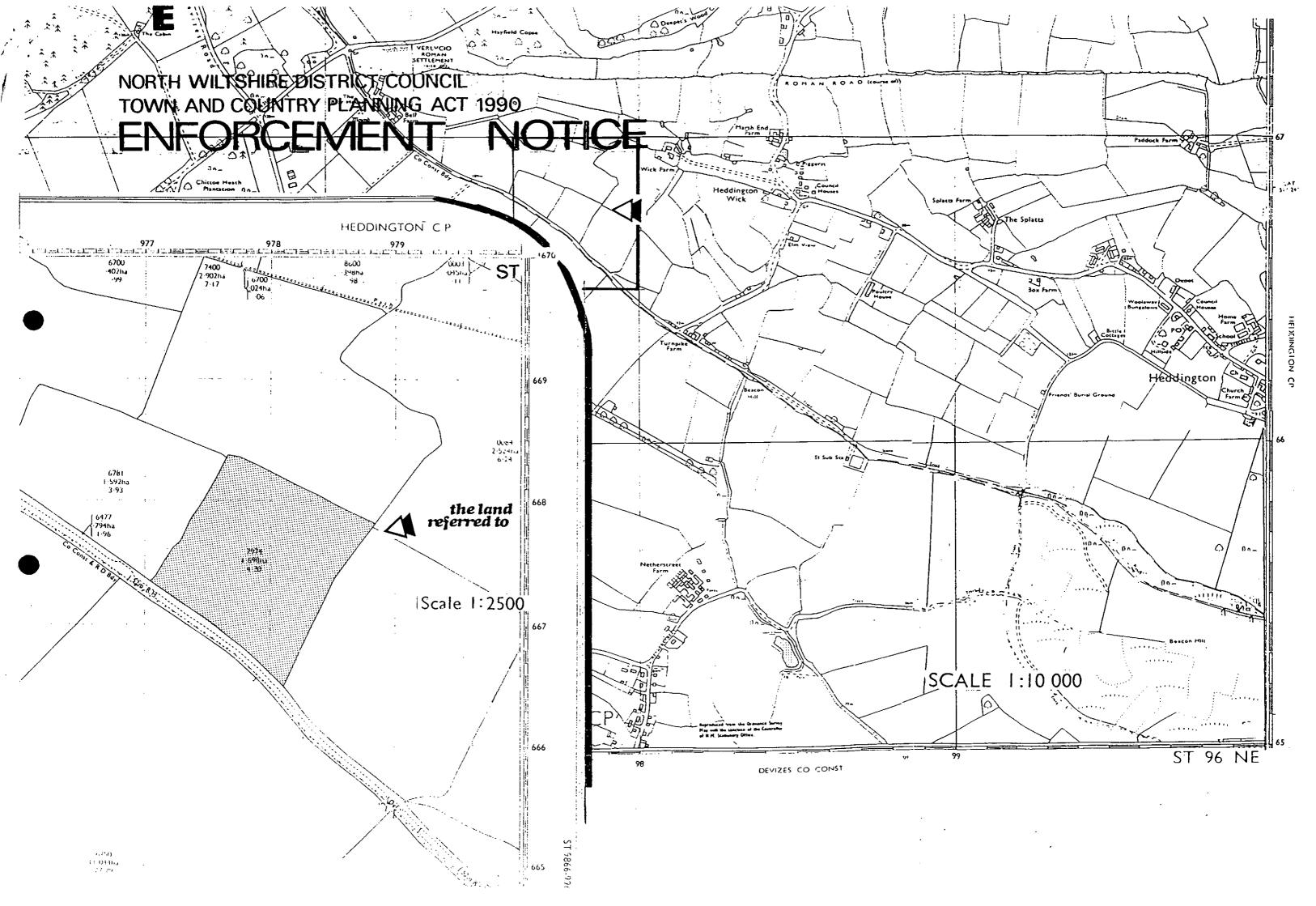
#### SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- 1. To cease the use of the land in connection with the operation of a Land Drainage Contractor's business
- To cease the use of the land for the storage of building and other materials, plant, machinery and vehicles associated with such a business
- 3. To remove from the land the said building and other materials, plant, machinery and vehicles

#### STATEMENT OF REASONS WHY THE LOCAL AUTHORITY CONSIDER IT EXPEDIENT TO ISSUE THIS NOTICE

The us of the land in connection with the operation of a Land Drainage Contractor's Business constitutes a material change of use from agriculture to industrial and storage uses which require planning permission. The unauthorised use is inappropriate within the countryside, has a detrimental effect on the character and appearance of this rural area and is contrary to Policy E15 of the deposited North Wiltshire Local Plan which states:

- IN THE COUNTRYSIDE, OUTSIDE THE FRAMEWORK AND PHYSICAL LIMITS OF A SETTLEMENT AS DEFINED ON THE PROPOSALS MAP, THE CONSTRUCTION OF NEW BUILDINGS OR THE USE OF LANDSFOR EMPLOYMENT PURPOSES WILL NOT NORMALLY BE PERMITTED EXCEPT:
  - 1. IN OR ADJACENT TO VILLAGES IN ACCORDANCE WITH POLICY E14;
  - 2. IN CONNECTION WITH MINERAL WORKINGS: OR
  - 3. THE CHANGE OF USE OF BUILDINGS IN ACCORDANCE WITH POLICY E16



## IMPORTAN

## THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

**DX** 34208 Fax (0249) 443152

tel: CHIPPENHAM (0249) 443322 ext: 598 Rachel Hind

North

NORTH WILTSHIRE DISTRICT COUNCIL Monkton Park, CHIPPENHAM, SN15 1ER

Dear Sir/Madam,

29th October 1992

# NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990

Land at Churchfield, Turnpike Road, Heddington, Wiltshire

687A

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 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 yoù 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 Your appeal MUST BE RECEIVED by the to the address on the appeal form. 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 Notice.

Yours faithfully,

District Secretary

DATE ON WHICH NOTICE TAKES EFFECT AND BEFORE WHICH ANY APPEAL MUST BE RECEIVED 14th December 1992

To: Mr. Nigel Anstee Jalna Stockley Road Heddington Wiltshire

Mrs. Jenifer W. Anstee Jalna Stockley Road Heddington Wiltshire

### NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990

### CEMEN NOTICE

land at Churchfield, Turnpike Road, Heddington, Wiltshire

#### WHEREAS:

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 172 of the Town and Country Planning Act 1990 ("the Act") in this matter, that there has been a breach of planning control within the last ten years on the land or premises ("the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the carrying out of development by the making of the material change in the use of the land described in Schedule 2 below, without the grant of planning permission required for that development.
- (3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said Section 172, for the reasons set out below.

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 175(4) of the Act, on 14th December 1992

ISSUED 29th October 1992

G.C. Belleidge. Signed

Monkton Park, Chippenham, SN15 1ER. DISTRICT SECRETARY

/ SCHEDULE 1 . . . . .

(over)

**ENFuse1** 

Land at Churchfield, Turnpike Road, Heddington shown stippled on the attached plan

#### SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

The making of a material change in the use of the land from use for agriculture to a continuing use for that purpose, and in addition, use in connection with the operation of a Land Drainage Contractor's Business by the storage of building and other materials, plant, machinery and vehicles associated with that business

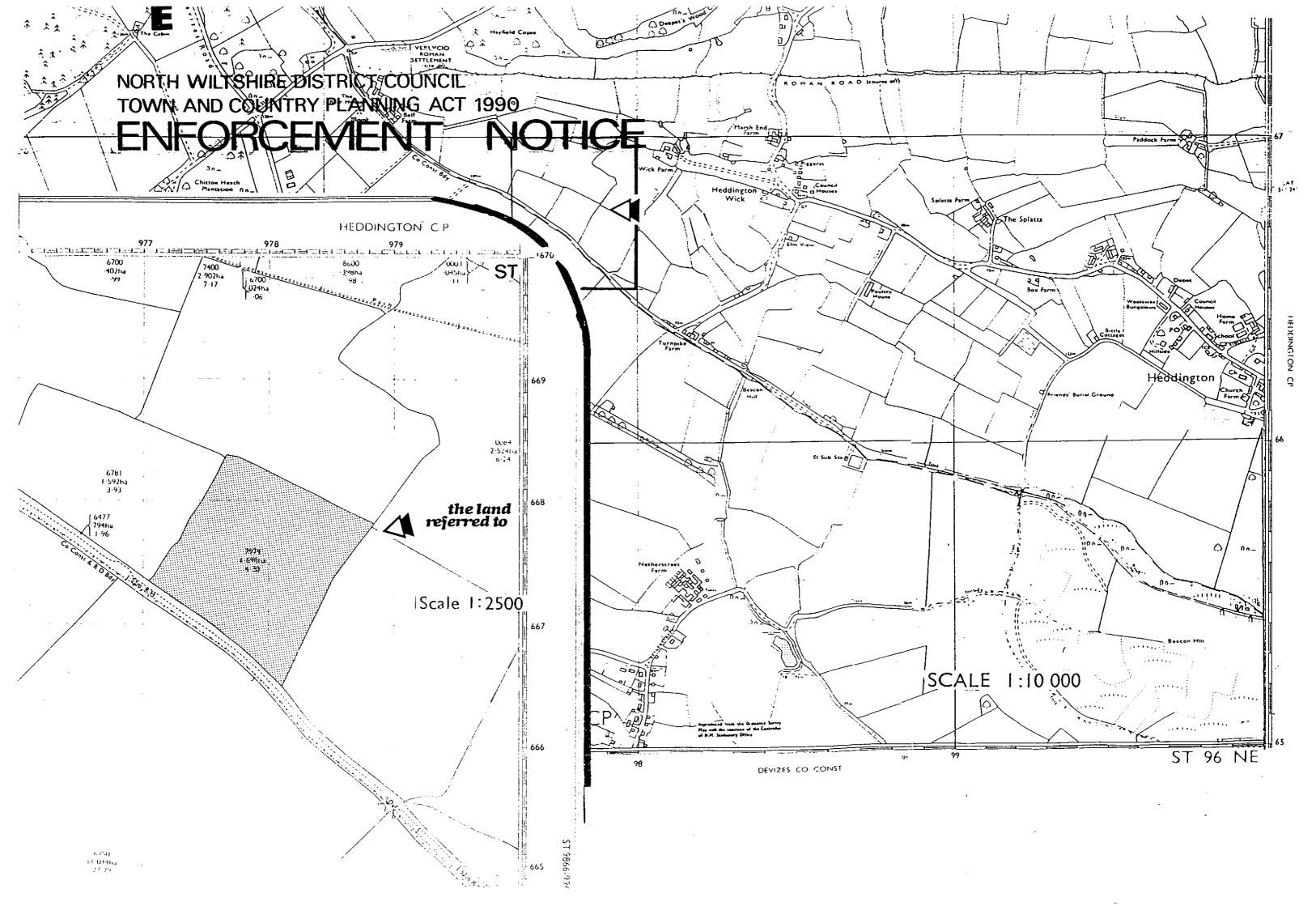
#### SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- To cease the use of the land in connection with the operation of a Land Drainage Contractor's business
- 2. To cease the use of the land for the storage of building and other materials, plant, machinery and vehicles associated with such a business
- 3. To remove from the land the said building and other materials, plant, machinery and vehicles

#### STATEMENT OF REASONS WHY THE LOCAL AUTHORITY CONSIDER IT EXPEDIENT TO ISSUE THIS NOTICE

The us of the land in connection with the operation of a Land Drainage Contractor's Business constitutes a material change of use from agriculture to industrial and storage uses which require planning permission. The unauthorised use is inappropriate within the countryside, has a detrimental effect on the character and appearance of this rural area and is contrary to Policy E15 of the deposited North Wiltshire Local Plan which states:

- IN THE COUNTRYSIDE, OUTSIDE THE FRAMEWORK AND PHYSICAL LIMITS OF A SETTLEMENT AS DEFINED ON THE PROPOSALS MAP, THE CONSTRUCTION OF NEW BUILDINGS OR THE USE OF LANDSFOR EMPLOYMENT PURPOSES WILL NOT NORMALLY BE PERMITTED EXCEPT:
  - 1. IN OR ADJACENT TO VILLAGES IN ACCORDANCE WITH POLICY E14;
  - 2. IN CONNECTION WITH MINERAL WORKINGS: OR
  - 3. THE CHANGE OF USE OF BUILDINGS IN ACCORDANCE WITH POLICY E16



## IMPORTANT

## THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

DX 34208 Fax (0249) 443152

tel: CHIPPENHAM (0249) 443322 ext: 598 Rachel Hind

North B

NORTH WILTSHIRE DISTRICT COUNCIL Monkton Park, CHIPPENHAM, SN15 1ER

29th October 1992

Dear Sir/Madam.

# NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990

Land at Churchfield, Turnpike Road, Heddington, 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 Notice.

Yours faithfully,

G.C. Betteidgo.

<u>District</u> Secretary

DATE ON WHICH NOTICE TAKES EFFECT AND BEFORE WHICH ANY APPEAL MUST BE RECEIVED 14th December 1992

To: Mr. Nigel Anstee Jalna Stockley Road Heddington Wiltshire

Mrs. Jenifer W. Anstee Jalna Stockley Road Heddington Wiltshire



# NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1990 ENFORCEMENT NOTICE

Land at Churchfield, Turnpike Road, Heddington, Wiltshire
WHEREAS:
(1) It appears to the North Wiltshire District Council

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 172 of the Town and Country Planning Act 1990 ("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 172, for the reasons set out below.

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 175(4) of the Act, on 14th December 1992

ISSUED _	29th October	1992	
		Signed	G.C. Beroidge
Monleton	Dawle		DISTRICT SECRETARY

Monkton Park, Chippenham, SN15 lER.

/ SCHEDULE 1 . . . .

(over)

Land at Churchfield, Turnpike Road, Heddington shown stippled on the attached plan

#### SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

- 1. The construction of an open-fronted steel framed building clad in metal profiled sheeting with blockwork plinth and store
- 2. The construction of two concrete blockwork bays
- 3. The siting of an oil tank and two concrete block supports adjacent to the building referred to in 1 above
- 4. The laying of hardcore to form:-
  - (i) a track approximately 6 metres wide leading from the highway, namely the C247 a Class III road, across the field, shown stippled on the attached plan, as far as the north eastern corner of that field, and
  - (ii) an area of hardstanding measuring approximately 35 metres by 35 metres in the north eastern corner of the field.

#### SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- 1. To remove the building from the land
- 2. To remove the two blockwork bays from the land
- 3. To dismantle and remove the oil tank and concrete block supports from the land
- 4. To remove the hardcore materials forming the track and hardstanding area (referred to in paragraphs 4(i) and (ii) in Schedule 2 above) from the land
- 5. To restore the land to the condition it was in immediately prior to the development referred to in Schedule 2 above taking place by reforming a level surface with topsoil to a depth of not less than 100mm. sufficient to sustain the use of the land for agriculture.

#### STATEMENT OF REASONS WHY THE LOCAL AUTHORITY CONSIDER IT EXPEDIENT TO ISSUE THIS NOTICE

The building and engineering operations on this site require planning permission as they are not used nor reasonably necessary for the purposes of agriculture within this agricultural unit, which comprises a single field of some 1.698 hectares (4.2acres) The development is considered to be inappropriate on this site within open countryside as there is no essential agricultural need for the building and other operations on this site, which have a detrimental effect on the character and appearance of this rural area and are contrary to Policy E15 of the deposited North Wiltshire Local Plan which states:-

- E15 IN THE COUNTRYSIDE, OUTSIDE THE FRAMEWORK AND PHYSICAL LIMITS
  OF A SETTLEMENT AS DEFINED ON THE PROPOSALS MAP, THE CONSTRUCTION
  OF NEW BUILDINGS OR THE USE OF LAND FOR EMPLOYMENT PURPOSES WILL
  NOT NORMALLY BE PERMITTED EXCEPT:
  - 1. IN OR ADJACENT TO VILLAGES IN ACCORDANCE WITH POLICY E14;
  - 2. IN CONNECTION WITH MINERAL WORKINGS: OR
  - 3. THE CHANGE OF USE OF BUILDINGS IN ACCORDANCE WITH POLICY E16

