

A/349/XP/P



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Colonel S Gulyas
Husky Riding Centre Limited
Gaddesden Row
Redbourn
Nr HEDEL HEMPSTEAD
Herts

Your reference
SG/PP/81
Our reference
T/APP/5252/0/81/2632/G4
Date 538-565/G4

110 FEB 1982

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LAND AND BUILDINGS AT HUSKY RIDING CENTRE, GADDESSEN ROW, REDBOURN, HERTS

APPEALS BY:- NOTICE A - HUSKY RIDING CENTRE LIMITED
NOTICE B - HUSKY RIDING CENTRE LIMITED
HUSKY OF TOSTOCK LIMITED
COLONEL S GULYAS
MRS S GULYAS
MISS SHEENA GREEN
MISS JANET MARRESCA
MR IAN CLARK
MISS FRANCES SHAW

1. I refer to these appeals, which I have been appointed to determine, against 2 enforcement notices served by the Dacorum District Council concerning the above-mentioned land and buildings. I held an inquiry into the appeal on 15-16 December 1981 and visited the site and surroundings on 22 December 1981.

NOTICE A

2. a. The date of the notice is 8 July 1981.

b. The breach of planning control alleged in the notice is the making of a material change in the use of the land for the purpose of show jumping events and competitions other than as incidental to the use of the land and buildings as a riding school.

c. The requirements of the notice are to discontinue the use of the land for the purpose of show jumping events and competitions except as incidental to the use of the land and buildings as a riding school.

d. The period for compliance with the notice is 4 calendar months.

e. The appeal was made on grounds 88(2)(b) and (e) of the 1971 Act as amended by the Local Government and Planning (Amendment) Act 1981. Ground (e) is equivalent to ground (d) on which the appeal was originally made. At the inquiry ground (a) was added.

NOTICE B

3. a. The date of the notice is 16 January 1981.
 - b. The breach of planning control alleged in the notice is the making of a material change in the use of the land for the purpose of stationing of 2 residential caravans (mobile homes).
 - c. The requirements of the notice are to discontinue the use of the land for the purpose of stationing 2 residential caravans (mobile homes).
 - d. The period for compliance with the notice is 3 calendar months.
 - e. The appeal was made on grounds 88(2)(a) and (h) of the amended 1971 Act. Ground (h) was formerly ground (g).
4. The evidence was taken on oath.
5. You are the Chairman and Managing Director of Husky Riding Centre Limited and confirmed that you appeared on behalf of all the appellants.

PROCEDURAL OBJECTIONS

6. At the start of the inquiry you raised a procedural objection. In accordance with paragraph 3 of the Notes for Guidance - Procedure with an Inquiry (sent to you by the Department) you had asked in your letter of 30 November 1981 for certain documents to be supplied to you, but none had been sent. Your case had been jeopardised thereby. In the council's view you already held some of these papers and other correspondence was private between the parties; some of the council documents were also available for purchase. I noted that the paragraph 3 quoted referred only to the attendance of witnesses and directed that the inquiry should proceed.
7. On the second day of the inquiry you repeated this objection saying that because the documents had not been made available, in giving me your copy of the council's development control report on Husky Riding Centre you had had no copy overnight to study. You also protested that under paragraph 2 of the Notes for Guidance the council's statement should have been provided 28 days before the inquiry and should have included views expressed by the Hertfordshire County Council which you had seen included in the advance copy given you of the evidence to be given by the council's witnesses. I took note of these objections but did not require the inquiry to be adjourned.
8. At the end of the inquiry you protested against Mr C McKeag, acting on behalf of his client, handing in a letter you had written in confidence to Mr Massey dated 3 April 1980 and marked Without Prejudice. Mr McKeag contended that he had the recipient's consent, that it had been produced in evidence at the inquiry, and that in September 1981 the Court of Appeal had noted that the notation Without Prejudice did not stop a document being put in. In any event it was not a crucial matter in the context of the quasi-legal status of the inquiry. I accepted the letter as part of Mr McKeag's submissions, noting that extracts had been read out and been the subject of cross-examination.

SUMMARY OF DECISION

9. The appeal fails in respect of Notice A which is being upheld but with an extended period for compliance. Notice B is being quashed for invalidity.

SITE AND SURROUNDINGS

10. Your 96 acre holding is situated in the countryside about 3 miles north of Hemel Hempstead. The buildings on the site are grouped near the driveway and form the complex of the riding establishment.

11. The principal building is the large covered arena. The main part is 150 ft x 104 ft but it has been extended to provide a clear riding area about 200 ft long and 80 ft wide. A special surface suitable for jumping is laid and overhead lighting is installed. In the wings of the building adjoining the arena there is spectator seating for 2-300, a judges box, cafeteria, secretary's office and 2 WC's. The main entrance into the arena is at the north-west end where there is an external overhang providing shelter for competitors. A loudspeaker mounted on the overhang points towards the practice area to the south-west; 2 speakers are also fitted inside the building.

12. Stabling for 40 horses is provided in a range of buildings to the south-west of the covered arena and beyond is the 4 bedroomed Hounds House where you live. Close to the stables on the opposite side of the driveway an old barn is used to store riding equipment and jumps; it has a hay loft on the upper floor but with limited height under the eaves.

13. A wide area on the north-east side of the covered arena provides parking space for horse boxes and trailers, and there is room for some further parking between the stables and the building. At the time of my visit two 28 ft horse boxes in your ownership were parked, each capable of carrying 4 horses and providing accommodation for the groom.

14. One of the caravans with which Notice B is concerned is sited along the south-east side of the covered arena and the other on the east side of the stable block. Both are 28 ft long and stand on their wheels. They are self-contained in that they provide sleeping, kitchen and washing facilities. A temporary electricity supply is connected but water to only one. At the time of my visit one was occupied by a student and one by your rider. A third mobile home, longer in length, was also sited in this area.

15. The north-western part of your holding, apart from the woodland areas, is used for hay and as grazing land. In the south-eastern section, extending towards Gaddesden Lane, 3 outdoor rings are installed on the part of the land used by the riding centre; the remaining area is used for grazing.

16. Also fronting Gaddesden Lane and lying between your property and the lane but with access through your land, is the substantial building Stags End, formerly the country house of its surrounding parkland and now occupied by 3 commercial firms.

17. The surrounding district is farmland or woodland in flat or gently undulating countryside. Within this area there is a network of roads, mostly narrow country lanes. The principal approaches to the site from the major roads are: from the B487 at Redbourn, 2 miles to the east, along Gaddesden Lane which is a narrow and winding road with stretches of carriageway narrowing to 14 ft and 12 ft between

hedgerow banks; from the A4146 Hemel Hempstead-Leighton Buzzard road at Water End 2 $\frac{3}{4}$ miles to the south-west along a road with straight and winding sections and narrowing at one point to 13 $\frac{1}{2}$ ft; from the A5(T) at Markyate 4 miles to the north along a less restricted road with 16 ft carriageway width but with a sharp turn in Markyate High Street. The latter 2 roads join Gaddesden Row for their final approach to the site. This is a straight stretch of road with a few dwellings, farmhouses and a public house; it has wide verges but the carriageway is restricted in places to 13 ft and 15 ft width. The road from Markyate to Water End is also a bus route. Markyate and Redbourn are about 2 miles distant from junctions on the M1 motorway.

UNDISPUTED FACTS

18. On the legal issues in Notice A it is not disputed between the parties that show jumping events and competitions have taken place or that planning permission was given in 1970 for the use of land on part of your holding as a riding school. Nor in Notice B that temporary planning permission was given for the stationing of 2 mobile homes.

YOUR CASE

Notice A

19. On ground (b) you submit that riding establishments cater for a variety of interests. The licensing required under the Riding Establishments Act 1964 makes no distinction between types of activity or types of horses. In the index to Stone's Justices' Manuals 1975 the entries under Riding School and Riding Establishment both refer to pages 3,564-3,570 of the volumes. Therein a riding school is shown to be subject to that Act. This provides conclusive evidence that a riding school is ancillary to a riding establishment and, under licence, may be concerned with any activity to do with horses. Show jumping is a riding school activity covered by the Act and this is applicable to a grant of planning permission for such use.

20. An equitation centre may equally be called "stable", "stud", "riding centre", "school" or "farm". The British Horse Society publication "Where to Ride 1981-2" does not distinguish between names given to schools specialising in certain subjects.

21. Unless specifically restricted by the terms of the planning consent approving the use, a riding school can pursue any of a wide range of activities, and it is customary for schools to hold shows. No restrictions were imposed on the planning permission of 2 June 1970 when approval was given for the riding school.

22. It has always been a primary objective for show and competitions to be held at the centre. The original Stags End brochure shows that 80% of the facilities available were not for riding school activities but constituted competitions; and there is further evidence in other correspondence and from statements by Mrs J Read (para 80).

23. Prior to your acquiring ownership in 1977, a detailed development programme was prepared for the previous owner and you would not have acquired the property if there had been any doubt about its future use. The purpose of erecting the indoor riding school, for which approval was given on 1 December 1970, was not for schooling animals but for competitions; this is confirmed by inclusion in the plans of judges box, secretary's office, cafeteria, spectators gallery and bar. It was to be one of the largest in the south of England and capable of holding

show jumping competitions to international level. There can be no doubt that the building was built primarily as a competition centre, which could also be used for schooling. In its present size it is capable of duplicating show jumping events at Wembley or Olympia.

24. The evidence of Mr M Hickman who advised on the design of the building is that to attract top riders a large building was needed. If the purpose was restricted to teaching only, a much smaller indoor school would have been provided or a division made in the building. In 1970 a riding school would necessarily have involved holding shows, as teaching by itself was not profitable; an indoor school of this size could not be justified. From his discussion with a member of the then council's planning department, he clearly recollects that the planning authority was aware of the intention to hold shows.

25. You are a specialist in show jumping training and your basic purpose is to train top grade show jumping instructors and grooms and top grade show jumping horses. Competitions form an important and large part of the training. Only competitive riding is taught. There may be training or schooling sessions on Mondays, Wednesdays and Fridays from 3-8 pm when specialist instructors give instruction at jumps in the ring. Expert riders bring their novice horses for training. The facilities are also used by the Pony Club for teaching children.

26. The primary aim is to train show jumping instructors and to participate in show jumping on a scale of not more than 15% of the overall activities. It was never intended to be solely a competition centre nor that show jumping should be the primary activity. But because of the refusal to allow further accommodation to be provided and the resulting inability to provide facilities for the riding school, it has not been possible to achieve the total income expected from the riding centre. A projected operational forecast confirms that show jumping and competitions were only intended to be a small part of the enterprise.

27. Only minor shows are held and small prizes given. The shows are listed in British Show Jumping Associations programmes but are not advertised. Events are held fairly regularly during the winter months on Thursdays, Saturdays and Sundays.

28. Between 17 April-31 December 1980 events were held on 58 days. These included:-

- i. affiliated shows (17 days) with about 50 horses participating. The shows are required to be registered with the British Show Jumping Association;
- ii. unaffiliated mixed jumping (7 days) with about 70 horses competing; this is not competition show jumping and is not recognised by the British Show Jumping Association;
- iii. evening mixed jumping (26 days) starting at 6 pm on completion of a full day's teaching, with about 60-70 horses;
- iv. gymkhanas (4 days) with about 20 ponies and providing enjoyment for young riders with no connection with show jumping or competitions;
- v. shows (4 days) donated or rented out to riding clubs but with riding or schooling at the centre continuing as usual.

29. Of the above only i and v, totalling 21 days out of 258 days or 8.1% of the period, are concerned specifically with show jumping and competitions. For the

last 2 years about 36-37 shows have been held each year. In the other events training and schooling is more important than competition. About 20-25 Pony Clubs also make use of the centre. It is hired out for about 8 hours per week, less frequently in the summer.

30. It is permissible to hold events for 28 days without obtaining planning permission and there has been no violation of the Town and Country Planning Act.

31. About 5 or 6 of your horses may take part in the shows. Of the remainder just over half arrive in horse boxes and the rest come in trailers. The larger boxes up to 30 ft long may carry up to 7 horses and also provide sleeping accommodation for grooms; about 4-5 of these vehicles visit per year. Vehicles are parked in the area north-east of the arena. Under the direction of a car park attendant (and one has not so far been provided) about 50 boxes could be parked there.

32. Entrants come from a general area lying north of the Thames and covering Oxfordshire, Hertfordshire, Buckinghamshire and Essex. Some come and leave in the mornings and afternoons, senior participants normally in the afternoons. There is a procession all day of about one vehicle every $\frac{1}{2}$ hour. A census of vehicle movements in November 1981, including 4 affiliated events, does not compare with the council's allegations. There is never a traffic jam.

33. Horse box drivers wish to avoid verges and potholes in order to prevent injury to the animals. Photographs taken during the winter months when the centre is most active show the verges to have been worn by agricultural tractor tyres. The damage to verges and potholes was apparent before you arrived; there has been no improvement for 9 years and they are only now being repaired. The statement of the Parish Council is repudiated.

34. Only one very small loudspeaker can be heard 100 yds away; it cannot be heard inside your house. There has been no environmental health complaint.

35. Husky Riding Centre Limited is a business, complying with Company Law, registered as a Limited Company in April 1977. The parent company is Husky of Tostock Limited. It provides the riding centre advertising and sponsorship revenue of £50,000 and pays all staff wages. Thus the riding centre makes a £50,000 loss per year. In no way can the income derived from show jumping be described as a principal objective of the riding centre. Competition centres normally charge for parking and seating.

36. In granting permission for the riding school use of the land, the council entered into a contract, binding in law, with Stags End Limited, the former owners. In taking enforcement action instead of previously issuing a stop notice the council has broken the law. Allegations in respect of disturbance to environmental amenities and damage to highways by large vehicles should have been pursued through the departments concerned. Despite the complaints by local residents no action has been taken by the environmental health or highways authorities and it must be concluded that no breach of the law occurred on either aspect.

37. The substance of the charges against you relates to noise, environmental and traffic problems and the enforcement notice should have been concerned with those aspects. The show jumping charge is ancillary and subordinate and should not have been made. As there is no case to answer there are no grounds for issuing the enforcement notice.

38. The council relies on hearsay evidence. The development control report on the centre is based on false information. In the last 3 years only 2 councillors have visited the premises.

39. On ground (e) you submit that the stable block was purposely built as a hunting stable, and the hunting connection is shown in the name "Hounds House" for your house and "Stags End" for the former estate. From Georgian times hunting has been recognised as a form of competition and such use has been carried on since then. This emphasis on competition continues in show jumping where horses compete against each other.

40. On ground (a) concerning the planning aspects, the centre is provided with a full size arena and a complete set of jumps up to international standard. There are only about 30 other indoor riding schools in the country capable of holding shows. You are often asked to hold more training shows as there are no other facilities in the area. The horses must be worked and kept in training. There must be a riding centre to hold this type of show.

41. An exception can sensibly be made to Policies 75 and 76 of the District Plan in view of the amount of capital injected into the existing recreational use.

42. There are no other facilities in this area for training children indoors. The centre is made available for riding and pony clubs and charitable institutions for whom £2,500 was raised last year. There have been special pleas from the former that the centre should not be closed down.

43. Horse boxes have every right to use the highway and levy more tax than agricultural vehicles. Passing difficulties in the lanes only take seconds to resolve. Although the road to Redbourn is very narrow the height of the horse boxes makes them visible above the hedges except in one or two places. There have been no accidents resulting from horse boxes but cars have caused 50 accidents per year. Of the 2 reported accidents, none were concerned with the riding centre. The police have never had problems with horse boxes. If disturbance is caused the highway authorities could impose restrictions.

Notice B

44. On the planning issues with regard to the caravans, despite justification for their use, permission for the retention of the 2 mobile homes has been refused 3 times. The reason for refusal was that they were no longer occupied for the purpose for which the permission was originally granted.

45. It was impossible to comply with the site plan and still meet licensing conditions for a caravan site. The area required for siting the caravans was inadequate and expenditure was not justified.

46. There must be accommodation so that staff can be available at all times. One person is required to live in for every 4-5 horses stabled. At present 4 staff live on the holding, and 3-4 come in daily. Your daughter also helps at the centre. Students have to live on the premises as there is no public transport and they may be too young to drive cars.

47. Refusals of planning applications for accommodation, including refusal on appeal for a further dwellinghouse to be built, have made it impossible to engage managerial staff. As no accommodation for students or instructors was available, the schooling aspect of the company was destroyed and you have not been able to realise your aim of training professionally qualified Instructors.

48. The centre only just manages to qualify with the British Horse Society but is not entitled to an entry in the yearbook as sufficient facilities cannot be provided.

49. Before acquiring the property you made a thorough search and noted that all planning applications had been approved. The barn conversion has not been started because you wish, in accordance with sound business principles, to produce an overall package with permission for additional suitable accommodation. The barn is used to store jumps and equipment worth £10,000. It is too expensive to convert and the Historical Society wishes to conserve it. Nor would it provide sufficient accommodation. You must have another house. If suitable accommodation cannot be provided you would revert the land to stud and agriculture.

50. Many other riding schools are located in the Green Belt or in an area of outstanding natural beauty. Notwithstanding its location in such an area the property is commercially rated and the group of 4-5 companies form an industrial estate. The council has approved other developments which contravene the Development Plan. A covered riding school has been permitted at Gaddesden Place, one mile distant. In 1973 no objections were made to a massive complex being planned nearby.

51. On ground (h) the retention of the 2 mobile homes is essential to the continued use of the riding centre until any revised plans for staff accommodation may be made.

THE COUNCIL'S CASE

Notice A

52. On ground (b), the 1970 planning permission authorised the use of the land for a riding school. In the application the proposed use is described as "the business of a riding school, stable and horse training and dealing and ancillary matters in connection therewith". In the ordinary sense of the meaning of "school", the principal activity permitted on the site relates to the provision of tuition, which would include teaching people to ride and the schooling of horses. Because horses are stabled on the premises the provision of stabling and livery accommodation and the use of horses for hacking would be uses ancillary or incidental to the primary school use. Similarly the informal and infrequent "end-of-term" jumping events in which riders who have received tuition may demonstrate their prowess is also an ancillary use. Other related activities, including breeding, may also take place so long as they are ancillary to the primary use and not primary uses in their own right.

53. There is no significance in the indexing of Stone's Justices' Manuals (para 19). The provisions of the Riding Establishment Act 1964 are not relevant.

54. During the period 1970-76 before you acquired the premises, a brochure describing the activities makes it clear that although horses and riders were trained for show jumping, the holding of shows and events of this nature was not an activity catered for at Stags End. Reference is specifically made to schooling and instruction and it is pointed out that Stags End is within easy reach of all the major shows. The emphasis is on tuition, livery and hacking. Notwithstanding the massive support you have received, there is a lack of evidence about regular show jumping events prior to 1977. It is significant that there were no complaints by local residents before then.

55. Since 1977 different circumstances have applied in respect of the holding of shows and competitions. In the period 17 April 1980-22 March 1981 events were planned to be held on 87 of the 339 days, including evenings and weekends. The programmes indicate an annual average of 1.7 events per week with greater use in the winter months averaging 2.3 events per week. While some events may be cancelled the figures provide a fair approximation of the activities. Such a number is significantly different to the total of 10 shows held in the 6 years prior to your ownership.

56. Most, if not all, jumping events are open to members and non-members of the Husky Club, the latter on payment of an additional class entry fee. Many competitions are sponsored by industrial concerns. Some events allowed winners to qualify for the Birmingham Industrial Show Jumping Championship 1981 and the Midland Bank Novice Championship 1981.

57. At a previous inquiry in April 1980, you stated your intention to intensify the show jumping activities which were the prime interest. Your own top-grade show jumpers were then stabled at the premises. You also said that events were held on average twice a week from October-March; that the premises were hired out to local pony clubs for shows and events, and that tuition took place when no shows were being held. Moreover, your stressing at that inquiry the need for proper accommodation for officials, guests and sponsors (which, while appropriate for a commercial show jumping arena, is not compatible with the primary use of the premises as a riding school) together with the requirement that you notify the British Show Jumping Association of your programme schedules, is indicative of the present emphasis on show jumping in preference to other activities. Furthermore Husky Riding Centre regularly features in the Horse and Hound magazine in a national list provided for show organisers to advertise events.

58. The holding of show jumping events and competitions on the present scale is outside the terms of the 1970 planning consent. Although tuition, livery accommodation and stud work may still take place, those uses have been displaced as primary activities by the holding of shows, events and competitions. The primary schooling use has become an incidental use. Alternatively, show jumping a new and material use, has been carried on side by side with the existing authorised use. In either case there has been a material change of use resulting in a breach of planning control.

59. The use of the building for holding shows and competitions is not covered by Class IV of Schedule 1 of the General Development Order 1977.

60. On ground (e), planning permission was not granted for the use of the site as a riding school until 2 June 1970. Prior to that time the site was used for agricultural purposes, as so described on the application form. There is no evidence that show jumping events and competitions have been held at Stags End since before the beginning of 1964.

61. On the planning issues under ground (a) in the approved County Structure Plan the site lies adjacent to the Metropolitan Green Belt and within the Chilterns Area of Outstanding Natural Beauty. It also lies within an Agricultural Priority Area on the Dacorum District Plan Proposals Map where provision is made for Amenity Corridors to meet demands for outdoor recreation in order to give priority to agriculture elsewhere. The development is contrary to Policy 13 of the Structure Plan and conflicts with the adopted planning policies for the area.

62. The holding of show jumping events represents a very intensive leisure use which has widespread effects on the country lanes. The nature of the use and the large amount of traffic attracted by the centre outweigh any enhancement of the area which might result from the use.

63. Not all entrants use traditional one or two horse trailer boxes drawn by private cars. Over half tow large boxes, capable of carrying up to 6 horses and some may be fitted with groom's living accommodation; such vehicles may be over 8 ft wide and 36 ft long. The number and size of vehicles using the narrow lanes cause inconvenience and disturbance to local residents.

64. At the previous inquiry in April 1980 you stated that an average of 50 vehicles attended day events, and 30 vehicles evening events. An indication of numbers of people attracted to the events is found in the number of letters and petitions, with a total of over 800 signatures, supporting your case. Only 16% of the latter are residents within the Dacorum District Council area; some signatories live in Oxford, Northampton and Maidenhead as well as locations in Hertfordshire, Bedfordshire, Buckinghamshire and London. The centre is providing facilities for far more than local riders.

65. The local network of Class III and unclassified roads is not capable of carrying the volume of traffic arising from the holding of show jumping events and competitions, nor were they designed for such a purpose. The roads are narrow with carriageways severely restricted in places. On every occasion of large vehicles passing there is a potential problem of congestion. The road edges and verges are badly broken up as a result of vehicles having to leave the metalled surface in order to pass. The wide verges along Gaddesden Row are included in the Waste of the Manor and do not form part of the highway.

66. Your statement that 50 car accidents occurred in one year, or an average of one per week, confirms the limitations of these roads.

67. Any improvement to the local roads, which is not contemplated, would be a large undertaking and destroy the rural character. It is most unlikely that this would be allowed in the Area of Outstanding Natural Beauty.

68. If only the authorised use were carried on, it is likely that at a riding school where a large number of horses are kept, a higher proportion of people would visit by car and there would be less horse box traffic. Traffic would also be spread more evenly and not peak as it does for competitions and shows.

69. Noise from the public address system has caused disturbance to houses in Gaddesden Row.

70. There is a real possibility that the use would escalate with further disastrous effects on local residents and on the countryside. The growing demand for the type of leisure activity provided by the centre would lead to a greater number of shows and greater intensification of the show jumping use.

Notice B

71. The permission for the 2 caravans being enforced against expired on 31 March 1980 and further applications for renewal were refused; temporary permission was granted on 2 August 1979 for the caravans to provide grooms' accommodation while other permanent accommodation was being provided. The latter comprised the extension and conversion of barns to one 3 bedroom dwelling and 2 bedrooms providing family accommodation for a head groom and shared accommodation for girl grooms. Permission was granted for this work in 1974 but was not implemented and the consent was renewed in 1980.

72. A third caravan was permitted in 1974 for the same reason and the temporary permissions were extended in 1976, 1977 and 1980; the current permission expires on 31 December 1981 and renewal has been sought.

73. Permanent accommodation with 4 bedrooms is provided at Hounds House. In 1981 planning permission was granted for extensions to provide improved accommodation but with the same number of bedrooms.

74. Approval for a dwelling was refused on appeal in April 1980. At the time of that inquiry the 3 caravans were occupied by the supervisor and his wife, a handyman and the head groom. Apart from the latter it was not essential for these staff to live at the site nor might they be expected to live in the accommodation to be provided by the barn conversion. It was concluded, in that appeal, that an essential need for a new dwelling at the centre was not established and that the living accommodation available, together with that already approved, was adequate.

75. The facilities provided by Hounds House and the occupation of the converted barn by a head groom and girl grooms would satisfy the requirements for those staff whom it is essential should live on the site. In view of the rural location where there is a strong presumption against further development, there is no justification for additional staff to live on the premises.

76. The permissions for the 2 caravans cannot be extended indefinitely. Planning permission for their retention should not be granted on either a permanent or temporary basis.

77. On ground (h) an extension to the period for compliance would be preferable to granting temporary permission.

THE CASE FOR INTERESTED PERSONS

In support of the appellant:

Notice A

Husky Riding Centre Supporters Committee

78. On ground (b), in the 1970 planning consent "school" can be interpreted as referring to the use of the whole area of land covered by the permission, or the building forming the covered riding school. It is not necessary to seek a dictionary definition. The issue is whether a riding school use is being carried on within the terms of the permission. In recognising that the use includes ancillary matters carried out in connection with the permitted use, the consent was concerned not to limit permission. The riding school is authorised to conduct continuing activities on a wide scale. It is not comparable to a school with end-of-term shows.

79. The learning of show jumping is a competitive and continuing process relating to horses, judges and course builders; they cannot be trained without competition. Competition is part of the school in this context. The shows are not ancillary but are part of the use itself.

80. There is evidence of regular shows being carried on since 1970. Mrs J Read testifies that the Hemel Hempstead Riding Club hired the premises for a club show in April 1971 and in March 1972; on 4 occasions in 1973, on 11 February, 22 April,

4 November and 16 December; and on 4 occasions in 1974. She understood 2 shows per month took place there. The British Show Jumping Association's records of affiliated shows held at commercial establishments cannot be produced as they are retained for 3 years only.

81. The covered arena is too large for teaching but is the right size for a full range of jumps including combinations. The indoor school is fitted with a spectators gallery and is only suitable for the holding of shows.

82. On the planning aspects, the centre is approved by the British Horse Society for the teaching of riding and jumping. It provides all the facilities required to meet the Society's definition of a riding centre. The Society is concerned that if local riders are denied its use, standards of horsemanship will fall and the risk of road accidents will increase.

83. The British Show Jumping Association confirms the necessity for continuity in show jumping throughout the winter. The particular features of the riding centre are that it provides an arena of comparable size to Wembley with excellent flooring and correct jumps available in sufficient numbers. The installation includes a judges box and timing arrangements. The whole facility provides safe conditions and is run by competent staff. There is a good spectator gallery, adequate catering, and horse boxes are parked clear of the schooling and practice area. Compared to other riding school activities it is an unique and essential requirement of show jumping training that competition shows are held as part of the training process, otherwise no experience can be gained; an average riding school in comparison may run small shows about once a month.

84. A large number of organisations use the centre including many Pony Clubs and Riding Clubs. It is used for shows, club evenings, summer camps, and has been used for an inter-club jumping competition attended by 13 clubs, a local area show for the British Show Jumping Association, and, in 1980, for the Hemel Hempstead Horse Show. Up to 300 boxes or trailers attended the latter but the show will not be held there again.

85. The centre is the only place in the area for non-beginners who own their horses to ride in winter and in dark evenings. Otherwise only roads and bridle paths are available. The promised bridleway around Hemel Hempstead is still to be completed. It is the only place where judges can receive practice training and course builders can get experience in creating courses for indoor shows. The nearest comparable show arena is in Braintree and possibly at Newmarket. Other establishments in the area are in no way comparable to Stags End.

86. There is room at the centre for only one Instructor. In the winter, pupil Instructors and management trainees, and their horses, receive tuition from 9 am-1 pm. In the afternoons the arena is hired out for riders with their own horses for use either with the Instructor or with their own Instructors. There are 3 outdoor rings also available for hire.

87. Few shows are held in the summer except for Thursday training shows. On Thursday evenings any rider can enter 3 types of competition on payment of an entrance fee. The events comprise clear round jumping for which a rosette is awarded (not a competition), a novice jumping competition and an open class with horses and ponies mixed. There is no sponsorship and the evening is informal with prizes paid out of entrance monies. The shows start at 6 pm and generally finish at 11-11.30 pm.

88. Weekend shows normally finish about 5-7.00 pm. At an ordinary weekend show there would be a maximum of 40-50 horse boxes, for which there is ample parking space.

89. The shows on Thursdays and at weekends are mostly sponsored by the centre. Such commercial sponsorship as there has been is limited to providing rosettes or very low value prizes. Leading riders do not normally come to the shows.

90. For indoor competitions the loudspeakers used cannot be heard outside. On outdoor shows they would be heard only during the day. Any disturbance could be restricted by conditions.

91. Because of damage which could be caused to valuable horses, drivers of horseboxes do not mount verges but wait for the road to become clear.

92. The Hertfordshire Constabulary does not consider that the traffic on the local roads causes congestion or accidents.

93. There are very few houses in the neighbourhood. Not all the residents object.

94. There is ample reason to depart from the District Plan policy. The location is close to the Amenity Corridor.

95. Petitions are submitted, totalling 816 signatures, from the Husky Riding Centre Support Committee, Old Berkeley Hunt, British Show Jumping Association Middlesex and Buckinghamshire, and Bedford Riding Club. There are also many letters in support.

Area 12 of the Pony Club

96. There is concern that if the riding centre does not continue under the present arrangements and riding school tuition is given there, no facilities would be available to the Pony Club. Children would have to ride on roads with risk of accident. 1,152 children use the centre on occasions.

Flamstead District of the Pony Club

97. It is stressed that there is a need to provide more facilities to meet the increased time now spent on leisure activities. Almost 200 children from ordinary families over a wide area have used the centre during the past 4 years; their ambition increases as they get more proficient. There is no cost to the council and there is nowhere else to go.

98. Mr J Geraghty considers it unreasonable to expect that no road development is undertaken only $2\frac{1}{2}$ miles from Hemel Hempstead. The needs and safety of riders should be considered. Closure of the centre would impose risks on riders having to use the narrow and winding roads.

99. Mrs R Manlove is of the view that riding is well established in this area where regular hunting used to take place. The increased population in the district has brought many more horses into the area.

In support of the council

Notice A

Mr E G Jones

100. On ground (b) the Oxford English Dictionary distinguishes between the meaning of school - a place of teaching and learning - and centre - a point of concentration. The latter reflects what may result if the authorised use is allowed to escalate. The ancillary uses permitted must be taken in the context of being subordinate to, and therefore primarily of, a school use. It is not reasonable to maintain that competitiveness in horseriding is a necessity. An apt analogy is that planning permission for a driving school would not also authorise competitive car racing. It is an accepted tenet of the law that unless otherwise defined, the normal interpretation given to a use is to apply.

101. There is evidence of nuisance in the large number of staged show jumping events held. The shows are put on for the training of special students, and not for the general public. They have become the primary use in place of the authorised primary teaching use.

102. On the planning aspects, there is no argument with the premises continuing in use for instructional purposes, which riding and pony clubs may still be able to enjoy.

103. Only 16% of those supporting your case come from the local area. The majority come from a distance where another 3-4 miles travel makes no difference. They could easily travel 15-20 miles in another direction into other areas. Park Side Riding School can offer similar facilities and is conveniently located. Alternatives are available and there is no overriding need for the premises.

104. To avoid injury to horses, horse boxes avoid verges and potholes; it is the other traffic which has to give way. The large vehicles cause obstruction in the narrow lanes and inconvenience to local residents. There is noise and disturbance particularly when evening shows are held.

105. The roads are deservedly a feature of the Area of Outstanding Natural Beauty. As has been held in an appeal elsewhere, the peace and tranquility of the few remaining outstanding environments in the country must be maintained.

106. If permission is given for show jumping competitions it would not be possible to curtail the number of events and numbers of horse boxes. Although it may not be your intention to increase activities above the 15% level you quoted, you have recognised that you could hold more intensive shows. It would be open to a successor to escalate the use of the site for show jumping up to Hickstead standards. Sponsorship would grow. Large numbers of horse boxes would visit the site with hundreds of people present. Already there has been one event attended by 300 vehicles. In stressing the business aspect you acknowledge the value of advertising; this comes from holding shows, not from teaching. The local residents who are affected by the use are rate payers to a substantial degree.

Great Gaddesden Parish Council

107. The council represents residents in 70 dwellings close to Stags End.

108. On ground (b) Mr C G Thomas sat on the Rural District Council Committee which in 1970 approved the riding school. At that time there was no indication of

any show jumping interest and there was no intention nor consideration of developing a show jumping centre. A riding school and livery were considered with one show a month up to 6 per year. There were no complaints about the use of the school in the previous ownership, but there have been many complaints in recent years. Any shows which may have been held in 1973-4 were small, involving little traffic and were not objectionable.

109. Between 17 April-28 December 1980, 58 events were held. Spot checks showed an average of 50 horse boxes or vans and on 2 days there were more than 100 horse carrying vehicles.

110. On the planning aspects there has been a marked deterioration in the quality of the local environment since the shows have become a regular feature. The public address system is also acutely disturbing.

111. The 3 approach roads are too narrow and winding for use by large vehicles, with places where it is not possible for them to pass. Prior to the present occupation the road verges were never in poor condition and have never previously been repaired. The horse boxes do not go on the verges but they consume the road space and force other traffic to make way for them. There have been accidents and damage to vehicles.

112. Mrs C Rowe farms 800 acres 2 miles to the north-west and stresses the agricultural nature of the area. Traffic to the riding centre from the M1 motorway has to pass through Markyate or Redbourn. Both roads are very narrow. The road to Markyate passes her land and the large amount of riding centre traffic has interrupted the movement of her agricultural vehicles and hindered the proper farming of the land. There has been a substantial increase in this traffic in the last 2-3 years. The local countryside is an agricultural area forming part of an Area of Outstanding Natural Beauty and the riding centre should not be allowed to grow out of all proportion.

113. Mr G H Davies is disturbed by vehicles passing his house regularly on Sundays from October-March and on Thursday evenings from 6 pm until after midnight. His recreational life at weekends is disrupted by the noise of large vehicles passing every few minutes; some are very heavy vehicles. Sleep is interrupted on Thursday nights. The roads are narrow and constantly congested. The bus has difficulty in passing vehicles.

114. Mr G Benningfield is concerned with the environmental aspects. The area is recognised for its outstanding countryside and natural history, and the quality of the landscape. The lanes are a particular feature and a characteristic of the English countryside, with the hedgerows and verges of special significance. It would be a tragedy if major road widening schemes were needed, which would be necessary if the traffic continues and increases. The proximity of the new town at Hemel Hempstead reinforces the need to conserve the countryside.

CONCLUSIONS

Notice A

115. I consider first the legal issues under grounds (b) and (e).

116. On ground (b) the use which the notice alleges to be unauthorised is the holding of show jumping events and competitions separate, in planning terms; from the authorised riding school use of the land. The latter use was granted in the

permission of 2 June 1970 which covered most of the land forming the present riding centre but did not include the land now occupied by the riding arena building or the car park on its north-east side.

117. In a letter of 10 August 1970, forming part of the application for the covered riding school, the applicant explained that the site was a natural position for the building as it lay immediately adjacent to the land he had originally purchased and for which application had recently been successfully made for the change in its use. I take the view that the use of the covered riding school is thereby associated with the riding school use of the land authorised a few months earlier. And there is no evidence that the covered arena has ever been regarded as other than forming an integral part of the riding school complex.

118. Most of the show jumping and competitive events take place within the covered arena. The permission given for this building on 1 December 1970 was for the "erection of covered riding school" and the approved plans before me show only structural details. As the purpose for which the building may be used is specified by the wording used in the permission I do not find grounds for accepting that the consent should be construed as including permission to use the building for the purpose for which it was designed, as might be derived in other circumstances from Section 33(2) of the 1971 Act.

119. The description in the first planning application that the proposed development would "carry on the business of a riding school, stable and horse training and dealing and ancillary matters in connection therewith" conveys the interpretation which I give to the meaning of "riding school" in that consent. It may be held that "covered riding school" in the second permission should be interpreted differently but in the context of this appeal I do not find it necessary to distinguish between them in examining your claim that show jumping events and competitions fall within the use of the land as a riding school.

120. In determining whether or not development has taken place it is necessary to assess whether the carrying on of show jumping events and competitions is a use of a different nature or character to the authorised use, and has been carried on to a sufficient extent to indicate that a material change has been made in the use of the land; or whether there are other circumstances which establish that development was not involved.

121. The riding school permission implies that those involved in that use of the land are likely to be concerned, horses and riders alike, primarily with instruction being given or received. In carrying out its function the riding school relies on its own arrangements to provide resources and facilities sufficient to meet its chosen scope and level of operations. Tuition in show jumping may well take place but at some stage in the training process it becomes necessary for the horse or rider to get experience in show jumping events and be introduced to the competitive aspect. While this may be regarded as a continuing form of instruction the holding of show jumping events and competitions introduces different characteristics to the riding school use.

122. In this case several differences are apparent. A few entrants to the show may come from the riding school but a substantial majority are not directly associated with the school and come to the site only to take part in the events and competitions. Their visit is limited to the few hours duration of the show and their interest in the venue is primarily in the provision and scope of the facilities and the events and competitions offered. (I exclude consideration of prize money which is not a significant feature of the shows). Also the competitions and events

are arranged to take place in the evenings or at weekends when leisure activities can more conveniently be pursued. In contrast it is reasonable to infer that in the carrying on of the business of a riding school the involvement would not necessarily be limited to such hours.

123. A further difference is that the holding of events and competitions cause comparatively large numbers to visit the site for the short period of the show while the riding school function involves fewer people visiting but over a more extended period. And the number and types of traffic generated may also be distinguished in that greater numbers of horse boxes are likely to be taken to show jumping events than to other activities conducted by a riding school.

124. All the above are relevant planning considerations which lead me to conclude that the regular and frequent holding of show jumping events and competitions is not part of or ancillary to the riding school use but is, in land use terms, a separate and identifiable use which is of a different nature. In reaching this view I have had regard to the expert opinion of the representative of the British Show Jumping Association that show jumping training, uniquely in comparison with other riding school activities, involves competition training and that an average riding school may only be expected to run small shows about once a month.

125. With regard to the scale of the use being carried on, I accept your evidence that about 50-70 horses compete in the events held at weekends and on Thursday evenings and that just over half the entrants visit with horse boxes. For reasons which I explain later I do not accept your classification of show jumping events and, in analysing your evidence in the summary at para 28, I note that in the 8½ month period quoted show jumping took place on 54 days (excluding the gymkhanas) and that the degree of usage broadly conforms to the evidence put forward by the council and the Parish Council. In my opinion this represents a significant use being made of the site for the purpose of show jumping events and competitions.

126. The use is manifested in the numbers of people travelling to and from the site along narrow country lanes towing horse boxes and trailers during quiet evening hours and at weekends. I accept the evidence of local residents that the road traffic generated has a substantial effect on the amenities of the neighbourhood and consider this also to be a relevant planning consideration.

127. In the light of the above considerations my assessment is that as a matter of fact and degree the present use of the premises for the holding of show jumping events and competitions has made a material change in the use of the land for that purpose.

128. You contend that only minor shows are held and differentiate between events and competitions which are and are not recognised by the British Show Jumping Association. You also align your case with criteria established by the British Horse Society and with the provisions of the Riding Establishment Acts of 1964 and 1970. But while these bodies may be the recognised equestrian authorities and the Acts impose statutory regulations for the keeping and licensing of riding establishments, their authority does not override the legislation set out in the Town and Country Planning Act 1971 which in this case relates to the enforcement of general planning control. The enforcement notice, against which your appeal is directed, only distinguishes show jumping events and competitions other than as incidental to the riding school use.

129. You submit that it has been your aim that show jumping events and competitions should not exceed 15% of the overall activities carried on at the centre when in full operation (which it has not yet been possible to achieve). As I have stated

I take the view that the present scale of activities constitutes a significant use in planning terms and consider it unlikely that a usage rate representing 15% of the overall turnover would be sufficiently small to be regarded as de minimis.

130. In claiming exemption from the need to obtain planning permission under the 28 day rule (para 30) you do not show that the use took place other than in the covered arena building, nor that the total number of events and competitions were less than 28 in one year. Consequently I do not find that the provisions of Class IV.2 of Schedule 1 to the Town and Country Planning General Development Order 1977 are applicable; nor are there any other permitted development rights accruing on your behalf under that Order.

131. My conclusion is that when the change of use took place development occurred for which planning permission was required. Failure to obtain permission has led to a breach of planning control and your appeal on ground (b) therefore fails.

132. On ground (e), for the use being enforced against to become immune from enforcement action, it is necessary to show that the breach of planning control occurred before the beginning of 1964. You provide no evidence in this respect and rely on the competitive element found in hunting to justify your claim. But the notice is concerned with the particular use of the land for show jumping events and competitions other than as incidental to the riding school use. The evidence at the inquiry was that this use started at some time after 1970 when permission was first given for the riding school to be established. Since the breach occurred after the beginning of 1964 your appeal on ground (e) also fails.

133. In considering the planning merits, the appeal on ground (a) is concerned only whether planning permission should be given for the holding of show jumping events and competitions which, as I have found above, do not fall within the authorised riding school use of the land. The continuation of the latter use is not a matter for determination in this appeal.

134. There is ample evidence, which I was able to confirm on my visit, that the covered riding area with the same dimensions as the Wembley arena provides excellent show jumping facilities. And I have no reason to doubt the effectiveness of the arrangements you make on your land for the holding of shows or of your satisfactory compliance with the appropriate rules and regulations governing their conduct. But the purpose of planning is to regulate the development and use of the land in the public interest. In this context I am of the opinion that the principal issues influencing my decision are the location and accessibility of the site, and the impact which the show jumping events and competitions have on the amenities of local residents.

135. The Chiltern Hills, in which the site lies, is an area of national landscape importance and is recognised accordingly in its designation as an Area of Outstanding Natural Beauty. The control of development in such an area deservedly receives special consideration and I refer particularly to the provisions in the approved Hertfordshire County Structure Plan aimed at preserving and enhancing the beauty of the Chilterns. It seems to me that in the safeguarding of its character, it is implicit that both development and communications should be subordinated to the basic theme of the Area of Outstanding Natural Beauty.

136. While such an area may be expected to be used for leisure and recreation purposes, from the location aspect there is no particular benefit to be derived from using your site for show jumping events and competitions, activities which could be held in less sensitive areas. Rather the reverse is true in that people come to the site more to take part in the shows than for reasons connected with

the general quality of the area. Although a more positive attitude towards development proposals generally is now encouraged, as advised in Circular 22/33, the area is not one of availability from the point of view of development and the Circular stresses that there is no change in the policies on Areas of Outstanding Natural Beauty. I am less concerned with conflicting agricultural policies as such as the show jumping use is taking place on land already authorised for use as a riding school and there would be no further loss of agricultural land.

137. The site lies within convenient driving distance of populated districts from which there is likely to be a ready number of entrants for the show jumping events and competitions. And the few number of riding centres in the country matching your facilities is likely to ensure good attendances. The majority of people would come from outside the immediate local area. To reach the centre they have to travel on narrow and winding country lanes which are likely to pose passing difficulties for horse boxes. I accept the evidence, including the photographs, of the width limitations of the carriageways which I was able to see for myself in my subsequent tour of the area. And I recognise the concern of local residents objecting to the additional traffic, expressed both at the inquiry and in letters submitted.

138. The network of these country roads is an integral feature of the established landscape. They provide the communications to the main roads only a few miles distant on the A4146, B487, A5(T) and M1; and they also serve the agricultural needs of the area which is the predominant and priority use of the countryside. The lanes are in my view unsuited for the further traffic, largely of horse boxes, generated by the regular holding of show jumping events and competitions. And the substantial widening of the roads or the provision of passing bays in sufficient places to accommodate the wide vehicles would conflict with the aim of preserving the integrity of the Area of Outstanding Natural Beauty.

139. For these reasons I consider that the holding of show jumping events and competitions is out of keeping with and harmful to the character of the area.

140. Many of the residents in the neighbourhood have their homes close to the roads. In the small scale of their surroundings the additional traffic would be likely to be a source of disturbance, particularly at weekends and in the evenings when shows are held. At these times when it may reasonably be expected that a feature of the countryside will be its relative quietness, such disturbance is likely to have a greater impact than on homes located on or near busier traffic routes designed for such purposes. I give less weight to disturbance caused by the loudspeaker announcements. In changed circumstances or under different management the use could, if permitted, be intensified in the holding of more or larger shows causing further disturbance and inconvenience to local residents.

141. In coming to my decision I have taken into account the many letters and petitions in your support, and in particular the case made on your behalf by the Husky Riding Centre Support Committee. I have also considered whether permission for the use might be given on a temporary or personal basis or whether a solution might be found by attaching conditions to a grant of permission. But I have concluded that a consent on these lines is not justified. In my view there are specific and convincing objections to the use and it is in the general public interest that the established policies aimed at maintaining the special nature of the Area of Outstanding Natural Beauty should prevail. I do not therefore intend to grant planning permission for the continued use of the site for show jumping events and competitions.

142. Although not pleaded I have also considered grounds (g) and (h). On the former I do not consider that the requirements of the notice, which are limited to discontinuing the show jumping events and competitions carried on at the riding school, are excessive. On ground (h) however I propose to extend the period for compliance to allow any shows already organised to be held, but not beyond the start of the next winter season.

Notice B

145. The evidence shows that planning permission was given in 1979 for the 2 mobil homes to be stationed on the land. However it was a condition of that consent that the permission should expire on 31 March 1980. But the permission is still being implemented in that the caravans remain on the land in residential occupation. The breach of planning control which has taken place therefore relates to the failure to comply with the condition and not with the making of a material change in the use of the land as alleged in the notice. This is a material defect which cannot be cured under the powers of Section 88A(2). I therefore propose to quash the notice for invalidity.

144. Accordingly the remaining grounds of appeal do not fall to be considered.

145. I have taken into account all the other matters raised at the inquiry in respect of both appeals but do not consider they outweigh the considerations on which I have based my decisions.

FORMAL DECISIONS

146. For the above reasons and in exercise of the powers transferred to me:

Notice A - I hereby dismiss the appeal and direct that the notice be varied at paragraph 2 of the operative part by deleting the words "four calendar months" and substituting therefor the words "seven calendar months". Subject to this variation I hereby uphold the notice and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the amended 1971 Act.

Notice B - I hereby direct that the enforcement notice be quashed.

RIGHT OF APPEAL AGAINST DECISIONS

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



Department of the Environment
 Room 903
 Tollgate House Houlton Street Bristol BS2 9DJ
 Telex 449321

Direct line 0272-218502
 Switchboard 0272-218811

1) Mr R. [unclear]

PLANNING DEPARTMENT		2/Team 2	
DURATION OF		COUNCIL	
4/0240/81E	MR	APPLN.	FILE
Received		-9 MAR 1981	
Comments			
Your reference			
4/0240/81E/DPN/SS			
Our reference			
APP/5252/01 81/558-65			
Date 5 March 1981			

Chief planning officer
 Dacorum District Council.
 Civic Centre.
 Hemel Hempstead.
 Herts.
 HPI 112

Dear Sir.

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 88
 APPEAL BY Husky Riding Centre Ltd.
 LAND at Husky Riding Centre, Gaddesden Row, Redbourn. -

1. I refer to our letter of 18th February 1981 about an appeal against an enforcement notice.
2. This appeal falls within the category prescribed by Regulations* for determination by a person appointed by the Secretary of State. From a preliminary examination, it appears that a local inquiry might be dispensed with and the appeal decided on the basis of written statements submitted by the parties, and an inspection of the site by the Inspector appointed to determine the appeal. However, paragraph 2(2) of the 9th Schedule to the Act requires the Secretary of State, before such appeals are determined, to ask the appellant and the Local Planning Authority whether they wish to appear before and be heard by the person so appointed. I am writing to ask you therefore to indicate within 14 days from the date of this letter whether you wish to exercise the right to be heard at a local inquiry. Your answer will also be treated as an indication whether you wish to exercise your right under section 88(2) of the Act to ask for an inquiry in the event of the Secretary of State deciding that he should determine the appeal himself.
3. Unless your Council, or the appellant, request a local inquiry to be held, it is proposed to proceed on the basis of written representations. Arrangements will be made for the officer appointed to visit the area to provide him with a description of the site which is the subject of the appeal and its surroundings. If the officer needs to enter the site it will be necessary for him to be accompanied by representatives of both parties and in this event you will be notified of the date and time the visit will take place. The visiting officer will not, however, be able to hear representations about the appeal from either side.
4. Notes for your council's guidance are set out on the back of this letter, and you are asked to adhere as closely as possible to the following timetable:-
 - i. the council's statement of case, with an extra copy to be forwarded to the appellant, should be submitted to the Department as soon as possible, and in any event not later than 6 weeks from the date of this letter;
 - ii. copies of the council's statement and that of the appellant will be exchanged as soon as they are received;
 - iii. on the exchange of initial statements the Secretary of State will ask for any further comments within a fortnight;
 - iv. after receiving further comments (if any) the appeal can normally be decided.

(See Over)

*The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1972 to 1977 (SI 1972 No. 1652 and 1977 No. 477).

5. I would point out however, that the Department reserves the right to order a local inquiry if the written representations from either side (or any other information) indicate that this would be desirable, or if there proves to be such a wide general interest in the appeal that it ought to be conducted with the publicity associated with a public inquiry.

Yours faithfully



C. J. U. DANN

NOTES TO RESPONDING AUTHORITY

1. In the Secretary of State's view an inquiry is necessary where the evidence to be given is such that it cannot be adequately put or examined in any other way, or where there is likely to be such interest in the appeal that it ought to be conducted with the publicity associated with an inquiry and with every opportunity for interested persons to express their views. Written representations are less frequently a suitable procedure for dealing with appeals against enforcement notices - particularly where there have been representations from third parties - but sometimes this procedure may be appropriate. The planning authority are normally in the best position to judge the extent of local interest, and guidance from them on this point would be appreciated in this instance.

2. The authority may feel in the circumstances of the particular case that while a local inquiry is not otherwise necessary certain persons ought to be informed of the appeal. In the Department's view it is usually necessary to inform at least immediate neighbours to give them the opportunity of submitting their comments in writing. Notification to third parties of an appeal which is being conducted by means of written representations should be made as soon as possible. This should explain clearly to the persons notified:-

- a. that the appeal relates to development which is alleged to have already been carried out (and not to proposed development).
- b. the nature of the development alleged in the enforcement notice, the precise location of the site and the steps required of the persons served to comply with the notice;
- c. the authority's views on the alleged development and their reasons for the action they have taken;
- d. the grounds on which the appeal is made and the facts on which it is based;
- e. that representations from interested persons may be made if they wish, in writing;
- f. the manner in which representations should be made; that is, to whom they should be addressed and within what period of time. It is suggested that the authority might allow, say 21 days. It would be preferable for them to be sent to the authority so that they may be submitted with the authority's own written statement but it should be made clear in the notice that if an interested person prefers to do so, he may write direct to the Department;
- g. that to be taken into account a person's views must be made known to the appellant as well as to the authority and to the Secretary of State or his Inspector and it should be pointed out to the appellant that the views expressed in their letter will be made known to the parties to the appeal; and
- h. that the Department will notify the decision on the appeal only to those who ask to be notified.