

Town Planning

Ref. No. 4/0586/86

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF

DACORUM

IN THE COUNTY OF HERTFORD

To Brinsden Builders (Hemel Hempstead) Ltd  
6 Mark Road  
Hemel Hempstead

Technical Design Partnership  
Blue Court, 1 Church Lane  
Kings Langley

Change of use - special industry to light  
industry and storage and trade sale of paint products  
at 54 Duxons Turn, Hemel Hempstead

Brief  
description  
and location  
of proposed  
development.

In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council hereby permit the development proposed by you in your application dated 23 April 1986 and received with sufficient particulars on 24 April 1986 and shown on the plan(s) accompanying such application, subject to the following conditions:-

- (1) The development to which this permission relates shall be begun within a period of 5 years commencing on the date of this notice.
- (2) Before the development hereby permitted is occupied the 8 parking spaces indicated on Drawing No 0890/01 shall be laid out and surfaced, and these shall be maintained at all times thereafter to the satisfaction of the local planning authority.
- (3) Between the hours to 7.00 am and 7.00 pm Mondays to Fridays inclusive, noise from operations conducted on the premises shall not exceed 48 dBA, measured on the north, south and west boundaries over any 15 minute period, and expressed at 15 minute equivalent continuous sound pressure level (Leq 15 minute). At any other time, noise from operations on the premises and measured and expressed in a similar way shall not exceed 38 dBA Leq 15 minute. The measurements shall be taken at a height of 1.2 metres above ground level except where the site is enclosed by a wall or other sound opaque structure, at or near the perimeter, when measurements shall be taken at a position high enough to measure the noise coming over the top of such a structure.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:—

- (1) To comply with the requirements of Section 41 of the Town & Country Planning Act, 1971.
- (2) To ensure the proper development of the site.
- (3) To safeguard the amenity of nearby residential properties.

Dated.....5.....day of.....June.....19.....86

Signed.....

Designation **CHIEF PLANNING OFFICER**

#### NOTE

(1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.

(2) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. Appeals must be made on a form which is obtainable from the Secretary of State for the Environment, Marsham Street, London, S.W.1. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.

(3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Common Council, or on the Council of the county borough, London borough or county district in which the land is situated, as the case may be, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.

(4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.

**IMPORTANT:— THIS COMMUNICATION AFFECTS YOUR PROPERTY**

(b)

Council

DACORUM BOROUGH

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

**Enforcement Notice<sup>(a)</sup>**

**Breach of Planning Condition to which the 4 Year Rule applies**  
**(Operational Development or Preventing Change of Use to Single Dwellinghouse)**

(c) 54 Duxons Turn, Hemel Hempstead

**WHEREAS:**

(1) It appears to the<sup>(b)</sup> Dacorum Borough Council ("the Council"), being the local planning authority for the purposes of section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of 4 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 failure to comply with the following condition(s) subject to which planning permission was granted on the 5th June 1986 for<sup>(d)</sup> change of use from Special Industry to Light Industry and Storage and trade sale of paint products.

[that] [those] condition(s) appearing not to have been complied with in the respect(s) set out in Schedule 2 below:

(e) (2) Before the development hereby permitted is occupied the 8 parking spaces indicated on Drawing No. 0890/01 shall be laid out and surfaced, and these shall be maintained at all times thereafter to the satisfaction of the local planning authority.

(3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said section 87, for the reasons set out in [the annex to] this notice.<sup>(f)</sup>

**NOTICE IS HEREBY GIVEN** that the Council require that the steps specified in Schedule 3 below be taken [in order to remedy the breach] [g]

within [the period of two ~~days~~] [months] from the date on which this notice takes effect] [the period specified in respect of each step in that Schedule].<sup>(h)</sup>

**THIS NOTICE SHALL TAKE EFFECT**, subject to the provisions of section 88(10) of the Act, on 16th April 1988 (i)

Issued 17th March 1988

Council's address

(Signed)

Keith Hunt

(Designation)

Borough Secretary

(The officer appointed for this purpose)

**CONTINUED OVERLEAF — P.T.O.**

**NOTES TO THE LOCAL PLANNING AUTHORITY**

- (a) This notice is appropriate for breach of a planning condition relating to the carrying out of operations or preventing a change of use of a building to a single dwellinghouse.  
(b) Insert the name of the Council issuing the notice.  
(c) Insert the address or a description of the land to which the notice relates.  
(d) Insert a description of the development for which planning permission was granted, using the words of the grant of permission.  
(e) Set out (in full) only the condition(s) which it is alleged has/have not been complied with.  
(f) See paragraph 29 of DOE Circular 38/81 (Welsh Office Circular 57/81).  
(g) Or, as the case may be, having regard to section 87(7)(a) and (b) of the Act. Where steps are required to be taken for more than one of the purposes provided for in section 87, the purpose for which each step is required should be specified in Schedule 3. Steps may be required as alternatives.  
(h) If a single period is to be specified by which all the required steps must be taken, insert it here. But if a series of steps is required to be taken, with a different compliance period for each step, the appropriate period should be clearly stated against each step (in columns if more suitable) in Schedule 3.  
(i) The date selected must be not less than 28 days after all the copies of the notice have been served (see section 87(5) of the Act).

### SCHEDULE 1

#### **Land or premises to which this notice relates**

*(address or description)*

54 Duxons Turn, Hemel Hempstead, Hertfordshire

shown edged [red] [ ] on the attached plan.<sup>(k)</sup>

### SCHEDULE 2

#### **Alleged breach of planning control**

Failure to comply with the condition(s) recited overleaf in that<sup>(l)</sup>

The development permitted has been occupied but the car parking spaces indicated on Drawing No. 0890/01 have not been laid out and surfaced.

### SCHEDULE 3

#### **Steps required to be taken<sup>(m)</sup>**

- (i) Demolition of the residual building on the premises.
- (ii) Lay out individual parking spaces on the car parking area.

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#### **NOTES TO THE LOCAL PLANNING AUTHORITY**

(k) See paragraph 31 of DOE Circular 38/81 (Welsh Office 57/81).

(l) State how it is alleged the condition(s) has/have been breached.

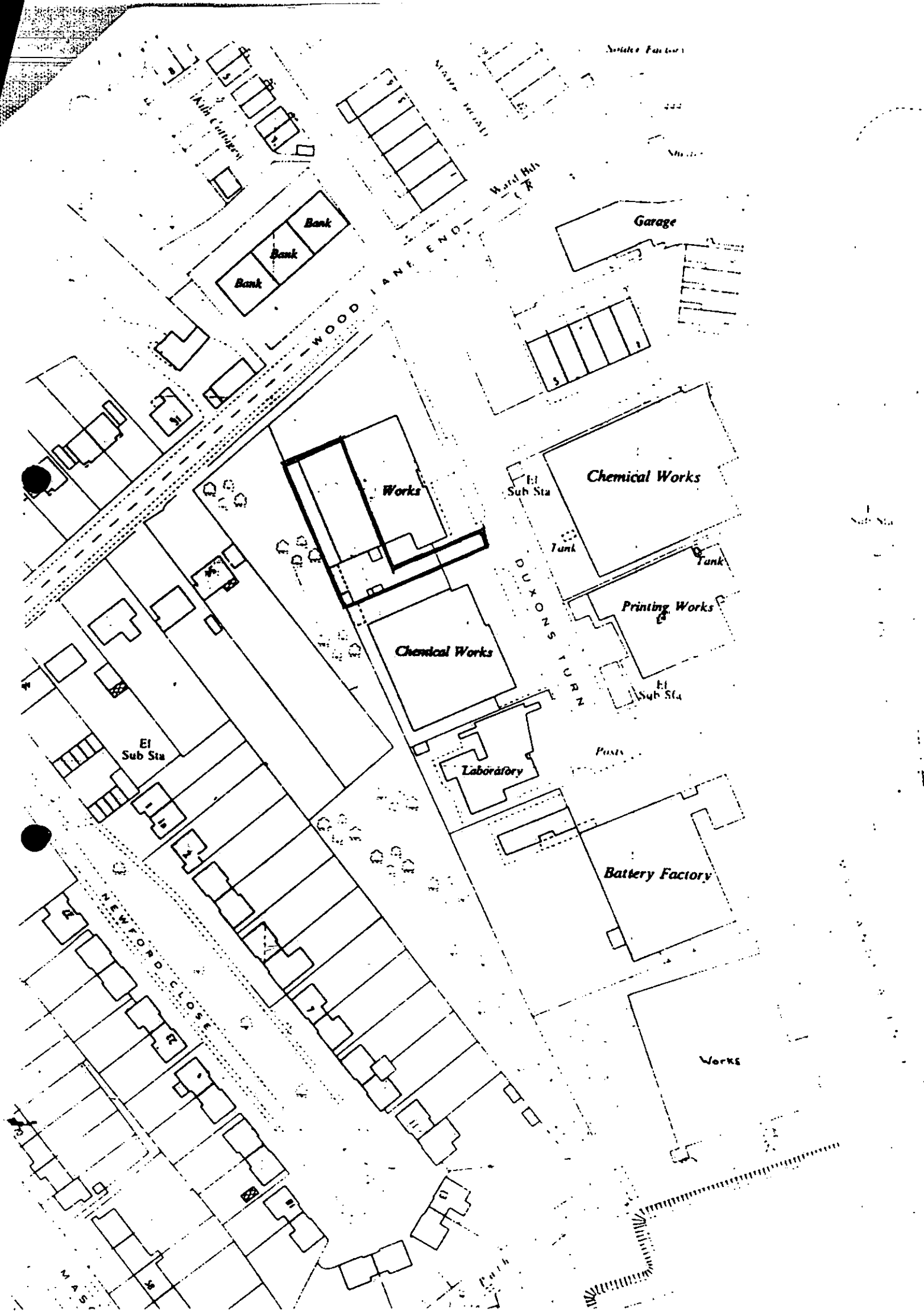
(m) Specify the actual steps to be taken with, if appropriate, the compliance period for each step. The requirements should be clear and precise. See also notes (g) and (h) above.

ANNEX TO ENFORCEMENT NOTICE DATED: 17 March 1988

This information is given in pursuance of the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981 and Circular 38/81.

The Council, as the Local Planning Authority, consider it expedient to serve this Notice upon you for the following reason(s):-

The parking spaces to meet the standards adopted by the Local Planning Authority for storage use are required in order to provide satisfactory off-street parking and to ensure proper development.



Solder Factory

Shed

Ward Hls

Garage

WOOD LANE

Bank

Works

El Sub Sta

Chemical Works

Tank

Tank

Printing Works

El Sub Sta

Chemical Works

DUXONS TURN

Laboratory

Posts

Battery Factory

Works

El Sub Sta

NEWFORD CLOSE

MA 5

(a)

DACORUM BOROUGH

Council

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

**Enforcement Notice**  
**Material Change of Use**

(b).....54 Duxons Turn, Hemel Hempstead, Hertfordshire.....

**WHEREAS:**

(1) It appears to the<sup>(a)</sup> Dacorum Borough Council ("the Council"), being the local planning authority for the purposes of section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963<sup>(c)</sup>

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 87, for the reasons set out in [the annex to] this notice.<sup>(d)</sup>

**NOTICE IS HEREBY GIVEN** that the Council require that the steps specified in Schedule 3 below be taken [in order to remedy the breach] [<sup>(e)</sup>

within [the period of six ~~days~~ [months] from the date on which this notice takes effect] [the period specified in respect of each step in that schedule].<sup>(f)</sup>

**THIS NOTICE SHALL TAKE EFFECT**, subject to the provisions of section 88 (10) of the Act, on 30th MAY 19 89.<sup>(g)</sup>

Issued 25th APRIL 1989

Council's address —  
Civic Centre,  
Hemel Hempstead  
Hertfordshire HP1 1HH

(Signed)

*Keith Hunt*

(Designation) BOROUGH SECRETARY

(The officer appointed for this purpose)

**CONTINUED OVERLEAF — P.T.O.**

**NOTES TO THE LOCAL PLANNING AUTHORITY**

- (a) Insert the name of the Council issuing the notice.
- (b) Insert the address or a description of the land to which the notice relates.
- (c) Where section 87(4)(c) of the Act applies insert "and within the period of 4 years before the date of issue of this notice."
- (d) See paragraph 29 of DOE Circular 38/81 (Welsh Office Circular 57/81).
- (e) Or, as the case may be, having regard to section 87(7)(a) and (b) of the Act. Where steps are required to be taken for more than one of the purposes provided for in section 87, the purpose for which each step is required should be specified in Schedule 3. Steps may be required as alternatives.
- (f) If a single period is to be specified, by which all the required steps must be taken, insert it here. But if a series of steps is required to be taken, with a different compliance period for each step, the appropriate period should be clearly stated against each step (in columns if more suitable) in Schedule 3.
- (g) The date selected must be not less than 28 clear days after all the copies of the notice will have been served (see section 87(5) of the Act).

## **SCHEDULE 1**

### **Land or premises to which this notice relates**

*(Address or description)*

54 Duxons Turn  
Hemel Hempstead  
Hertfordshire

shown edged [red] [

] on the attached plan.<sup>(h)</sup>

## **SCHEDULE 2**

### **Alleged breach of planning control**

*(description of the material change of use alleged to have been made) (j)*

The change of use from light industry and storage and trade sale of paint products being a use falling within Class B1 of The Town and Country Planning (Use Classes) Order 1987, to use of the premises for the carrying on of the industrial process of method pressing and forming of components involving the operation of sixteen industrial machine presses, being a use falling within Class B2 of the said Use Classes Order.

## **SCHEDULE 3**

### **Steps required to be taken.<sup>(k)</sup>**

(i)

Cease using the premises for the carrying on of the industrial process of method pressing and forming of components, and

(ii)

Remove the sixteen industrial machine presses from the premises.

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### **NOTES TO THE LOCAL PLANNING AUTHORITY**

(h) See paragraph 31 of DOE Circular 38/81 (Welsh Office Circular 57/81).

(j) If the new use is a mixed use, include all the uses comprising that mixed use.

(k) Specify the actual steps to be taken with, if appropriate, the compliance period for each step. The requirements should be clear and precise. See also notes (e) and (f) overleaf.

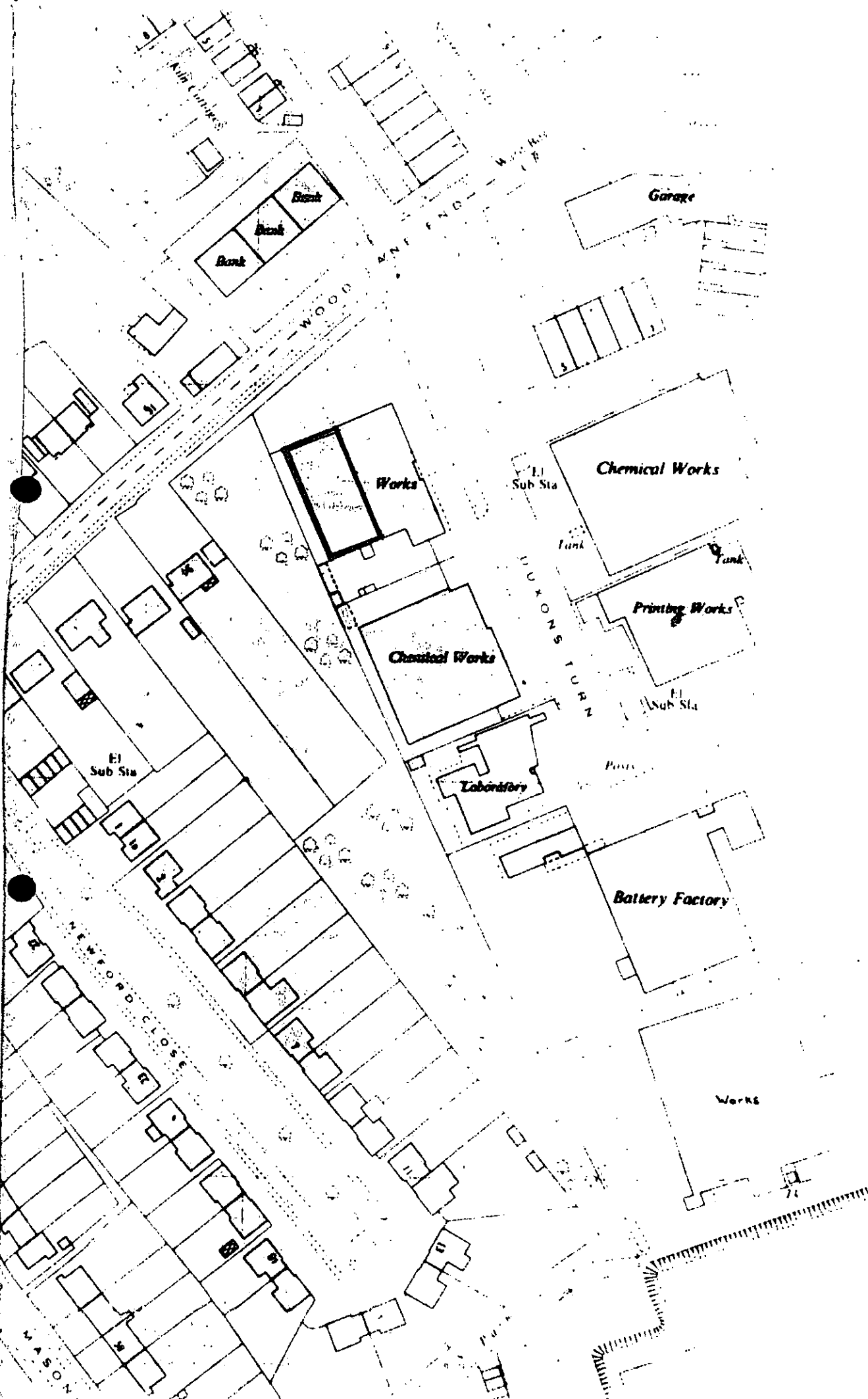


Annexe to Enforcement Notice dated:

This information is given in pursuance of the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981 and Circular 38/81.

The Council, as the Local Planning Authority, consider it expedient to serve this Notice upon you for the following reason (s):

The use is considered severely detrimental to the amenities of adjacent residential properties by reason of noise and general disturbance.



## EXTRACTS from the TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

### Power to issue enforcement notice

87.—(1) Where it appears to the local planning authority that there has been a breach of planning control after the end of 1963, then subject to the following provisions of this section, the authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied and serve copies of the notice in accordance with subsection (5) of this section.

(2) A notice under this section is referred to in this Act as an "enforcement notice".

(3) There is a breach of planning control—

- (a) if development has been carried out, whether before or after the commencement of this Act, without the grant of the planning permission required in that behalf in accordance with Part III of the Act of 1962 or Part III of this Act; or
- (b) if any conditions or limitations subject to which planning permission was granted have not been complied with.

(4) An enforcement notice which relates to a breach of planning control consisting in—

- (a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land; or
- (b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land; or
- (c) the making without planning permission of a change of use of any building to use as a single dwelling-house; or
- (d) the failure to comply with a condition which prohibits or has the effect of preventing a change of use of a building to use as a single dwelling-house.

may be issued only within the period of four years from the date of the breach.

(5) A copy of an enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect—

- (a) on the owner and on the occupier of the land to which it relates; and
- (b) on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.

(6) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.

(7) An enforcement notice shall also specify—

- (a) any steps which are required by the authority to be taken in order to remedy the breach;
- (b) any such steps as are referred to in subsection (10) of this section and are required by the authority to be taken.

(8) An enforcement notice shall specify the period within which any such step as is mentioned in subsection (7) of this section is to be taken and may specify different periods for the taking of different steps.

(9) In this section "steps to be taken in order to remedy the breach" means (according to the particular circumstances of the breach) steps for the purpose—

- (a) of restoring the land to its condition before the development took place; or
- (b) of securing compliance with the conditions or limitations subject to which planning permission was granted, including—
  - (i) the demolition or alteration of any buildings or works;
  - (ii) the discontinuance of any use of land; and
  - (iii) the carrying out on land of any building or other operations.

(10) The steps mentioned in subsection (7)(b) of this section are steps for the purpose—

- (a) of making the development comply with the terms of any planning permission which has been granted in respect of the land; or
- (b) of removing or alleviating any injury to amenity which has been caused by the development.

(11) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.

(12) The Secretary of State may by regulations direct—

- (a) that enforcement notices shall specify matters additional to those which they are required to specify by this section; and
- (b) that every copy of an enforcement notice served under this section shall be accompanied by an explanatory note giving such information as may be specified in the regulations with regard to the right of appeal conferred by section 88 of this Act.

(13) Subject to section 88 of this Act, an enforcement notice shall take effect on a date specified in it.

(14) The local planning authority may withdraw an enforcement notice (without prejudice to their power to issue another) at any time before it takes effect.

(15) If they do so, they shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.

(16) Where—

- (a) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and
- (b) the notice has required the taking of steps for a purpose mentioned in subsection (10)(b) of this section; and
- (c) the steps have been taken,

for the purposes of this Act planning permission for the retention of the building or works as they are as a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the local planning authority.

### Appeal against enforcement notice

88.—(1) A person having an interest in the land to which an enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

- (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;
- (b) that the matters alleged in the notice do not constitute a breach of planning control;
- (c) that the breach of planning control alleged in the notice has not taken place;
- (d) in the case of a notice which, by virtue of section 87(4) of this Act, may be issued within the period of four years from the date of the breach of planning control to which the notice relates, that that period had elapsed at the date when the notice was issued;
- (e) in the case of a notice not falling within paragraph (d) of this subsection, that the breach of planning control alleged by the notice occurred before the beginning of 1964;
- (f) that copies of the enforcement notice were not served as required by section 87(5) of this Act;
- (g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 87(10) of this Act;
- (h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.

(3) An appeal under this section shall be made by notice in writing to the Secretary of State.

(4) A person who gives notice under subsection (3) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed by regulations under subsection (5) of this section\*, a statement in writing—

- (a) specifying the grounds on which he is appealing against the enforcement notice; and
- (b) giving such further information as the regulations may prescribe.

(5) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection—

- \* (a) may prescribe the time within which an appellant is to submit a statement under subsection (4) of this section and the matters on which information is to be given in such a statement;

\*NOTE: The Secretary of State has specified that such a statement must be submitted to him either when the appellant is giving notice of appeal, or within 28 days from the date on which the Secretary of State sends the appellant a notice requiring

- (b) may require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (c) may specify the matters to be included in such a statement;
  - (d) may require the authority or the appellant to give such notice of appeal under this section as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated;
  - (e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (6) The Secretary of State—
- (a) may dismiss an appeal if the appellant fails to comply with subsection (4) of this section within the time prescribed by regulations under subsection (5); and
  - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (b), (c) or (e) of subsection (5) of this section within the period prescribed by the regulations.
- (7) Subject to subsection (8) below, the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (8) The Secretary of State shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (a) of subsection (6) of this section or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection.
- (9) If—
- (a) a statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but
  - (b) the appellant does not give information required under paragraph (b) of that subsection to each of the specified grounds within the time prescribed by regulations under subsection (5) of this section,
- the Secretary of State may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.
- (10) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (11) Schedule 9 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.
- 88A.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.
- (2) On such an appeal the Secretary of State may correct any informality, defect or error in the enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the local planning authority.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- 88B.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State may—
- (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.
- (2) In considering whether to grant planning permission under subsection (1) of this section, the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations; and any planning permission granted by him under that subsection may—
- (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Secretary of State thinks fit;
- and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (3) Where an appeal against an enforcement notice is brought under section 88 of this Act, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (1) of this section—
- (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and
  - (c) for the purposes of section 34 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.
- (4) On an appeal under section 88 of this Act against an enforcement notice relating to anything done in contravention of a condition to which section 71 of this Act applies, the Secretary of State shall not be required to entertain the appeal in so far as the appellant claims that planning permission free from that condition ought to be granted.

**Penalties for non-compliance with enforcement notice**

- 89.**—(1) Subject to the provisions of this section, where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding £2,000 or on conviction on indictment to a fine.
- (2) If a person against whom proceedings are brought under subsection (1) of this section has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps were attributable, in whole or in part, to the default of the subsequent owner—
- (a) the subsequent owner may be convicted of the offence; and
  - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable—
- (a) on summary conviction to a fine not exceeding £100 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of the use of land) remain unfulfilled; or
  - (b) on conviction on indictment to a fine.
- (5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £2,000, or on conviction on indictment to a fine; and if the use is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £100 for each day on which the use is so continued, or on conviction on indictment to a fine.
- (6) Any reference to this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith or of such extended period as the local planning authority may allow for compliance with the notice.

**Note.**—Attention is also directed to section 91 relating to the execution and costs of works required by enforcement notice, section 110 which contains supplementary provisions as to appeals to the Secretary of State and section 243 relating to the validity of Enforcement Notices.

(b)

Council

DACORUM BOROUGH

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

**Enforcement Notice<sup>(a)</sup>**

**Breach of Planning Condition to which the 4 Year Rule applies**  
(Operational Development or Preventing Change of Use to Single Dwellinghouse)

(c) 54 Duxons Turn, Hemel Hempstead

**WHEREAS:**

(1) It appears to the<sup>(b)</sup> Dacorum Borough Council ("the Council"), being the local planning authority for the purposes of section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of 4 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 failure to comply with the following condition(s) subject to which planning permission was granted on the 5th June 1986 for<sup>(d)</sup> change of use from Special Industry to Light Industry and Storage and trade sale of paint products.

[that] [those] conditions(s) appearing not to have been complied with in the respect(s) set out in Schedule 2 below:

(c) (2) Before the development hereby permitted is occupied the 8 parking spaces indicated on Drawing No. 0890/01 shall be laid out and surfaced, and these shall be maintained at all times thereafter to the satisfaction of the local planning authority.

(3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said section 87, for the reasons set out in [the annex to] this notice.<sup>(f)</sup>

**NOTICE IS HEREBY GIVEN** that the Council require that the steps specified in Schedule 3 below be taken [in order to remedy the breach] [g]

within [the period of two ~~days~~] [months] from the date on which this notice takes effect] [the period specified in respect of each step in that Schedule].<sup>(h)</sup>

**THIS NOTICE SHALL TAKE EFFECT**, subject to the provisions of section 88(10) of the Act, on 16th April 1988.<sup>(i)</sup>

Issued 17th March 1988.

Council's address

(Signed)

*Keith Hunt*

(Designation)

*Borough Secretary*

(The officer appointed for this purpose)

*Notice complied with  
Returned 17/4/89.*

**CONTINUED OVERLEAF — P.T.O.**

**NOTES TO THE LOCAL PLANNING AUTHORITY**

- (a) This notice is appropriate for breach of a planning condition relating to the carrying out of operations or preventing a change of use of a building to a single dwellinghouse.  
(b) Insert the name of the Council issuing the notice.  
(c) Insert the address or a description of the land to which the notice relates.  
(d) Insert a description of the development for which planning permission was granted, using the words of the grant of permission.  
(e) Set out (in full) only the condition(s) which it is alleged has/have not been complied with.  
(f) See paragraph 29 of DOE Circular 38/81 (Welsh Office Circular 57/81).  
(g) Or, as the case may be, having regard to section 87(7)(a) and (b) of the Act, Where steps are required to be taken for more than one of the purposes provided for in section 87, the purpose for which each step is required should be specified in Schedule 3. Steps may be required as alternatives.  
(h) If a single period is to be specified by which all the required steps must be taken, insert it here. But if a series of steps is required to be taken, with a different compliance period for each step, the appropriate period should be clearly stated against each step (in columns if more suitable) in Schedule 3.  
(i) The date selected must be not less than 28 days after all the copies of the notice have been served (see section 87(5) of the Act).

### SCHEDULE 1

#### **Land or premises to which this notice relates**

*(address or description)*

54 Duxons Turn, Hemel Hempstead, Hertfordshire

shown edged [red] [ ] on the attached plan.<sup>(k)</sup>

### SCHEDULE 2

#### **Alleged breach of planning control**

Failure to comply with the condition(s) recited overleaf in that<sup>(l)</sup>

The development permitted has been occupied but the car parking spaces indicated on Drawing No. 0890/01 have not been laid out and surfaced.

### SCHEDULE 3

#### **Steps required to be taken<sup>(m)</sup>**

- (i) Demolition of the residual building on the premises.
- (ii) Lay out individual parking spaces on the car parking area.

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#### **NOTES TO THE LOCAL PLANNING AUTHORITY**

(k) See paragraph 31 of DOE Circular 38/81 (Welsh Office 57/81).

(l) State how it is alleged the condition(s) has/have been breached.

(m) Specify the actual steps to be taken with, if appropriate, the compliance period for each step. The requirements should be clear and precise. See also notes (g) and (h) above.

ANNEX TO ENFORCEMENT NOTICE DATED: 17th March 1983

This information is given in pursuance of the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981 and Circular 38/81.

The Council, as the Local Planning Authority, consider it expedient to serve this Notice upon you for the following reason(s):-

The parking spaces to meet the standards adopted by the Local Planning Authority for storage use are required in order to provide satisfactory off-street parking and to ensure proper development.

Souther Factory

242

Ward Hls  
(R)

Garage

WOOD LANE END

Works

El  
Sub Sta

Chemical Works

Tank

Tank

Printing Works

El  
Sub Sta

Chemical Works

Laboratory

Posts

Battery Factory

Works

El  
Sub Sta

NEWFORD CLOSE

MASON



## EXTRACTS from the TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

### Power to issue enforcement notice

87.—(1) Where it appears to the local planning authority that there has been a breach of planning control after the end of 1963, then subject to the following provisions of this section, the authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied and serve copies of the notice in accordance with subsection (5) of this section.

- (2) A notice under this section is referred to in this Act as an "enforcement notice".
- (3) There is a breach of planning control—
  - (a) if development has been carried out, whether before or after the commencement of this Act, without the grant of the planning permission required in that behalf in accordance with Part III of the Act of 1962 or Part III of this Act; or
  - (b) if any conditions or limitations subject to which planning permission was granted have not been complied with.
- (4) An enforcement notice which relates to a breach of planning control consisting in—
  - (a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land; or
  - (b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land; or
  - (c) the making without planning permission of a change of use of any building to use as a single dwelling-house; or
  - (d) the failure to comply with a condition which prohibits or has the effect of preventing a change of use of a building to use as a single dwelling-house.may be issued only within the period of four years from the date of the breach.
- (5) A copy of an enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect—
  - (a) on the owner and on the occupier of the land to which it relates; and
  - (b) on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.
- (6) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.
- (7) An enforcement notice shall also specify—
  - (a) any steps which are required by the authority to be taken in order to remedy the breach;
  - (b) any such steps as are referred to in subsection (10) of this section and are required by the authority to be taken.
- (8) An enforcement notice shall specify the period within which any such step as is mentioned in subsection (7) of this section is to be taken and may specify different periods for the taking of different steps.
- (9) In this section "steps to be taken in order to remedy the breach" means (according to the particular circumstances of the breach) steps for the purpose—
  - (a) of restoring the land to its condition before the development took place; or
  - (b) of securing compliance with the conditions or limitations subject to which planning permission was granted, including—
    - (i) the demolition or alteration of any buildings or works;
    - (ii) the discontinuance of any use of land; and
    - (iii) the carrying out on land of any building or other operations.
- (10) The steps mentioned in subsection (7)(b) of this section are steps for the purpose—
  - (a) of making the development comply with the terms of any planning permission which has been granted in respect of the land; or
  - (b) of removing or alleviating any injury to amenity which has been caused by the development.
- (11) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.
- (12) The Secretary of State may by regulations direct—
  - (a) that enforcement notices shall specify matters additional to those which they are required to specify by this section; and
  - (b) that every copy of an enforcement notice served under this section shall be accompanied by an explanatory note giving such information as may be specified in the regulations with regard to the right of appeal conferred by section 88 of this Act.
- (13) Subject to section 88 of this Act, an enforcement notice shall take effect on a date specified in it.
- (14) The local planning authority may withdraw an enforcement notice (without prejudice to their power to issue another) at any time before it takes effect.
- (15) If they do so, they shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.
- (16) Where—
  - (a) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and
  - (b) the notice has required the taking of steps for a purpose mentioned in subsection (10)(b) of this section; and
  - (c) the steps have been taken,for the purposes of this Act planning permission for the retention of the building or works as they are as a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the local planning authority.

### Appeal against enforcement notice

- 88.—(1) A person having an interest in the land to which an enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) An appeal may be brought on any of the following grounds—
    - (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;
    - (b) that the matters alleged in the notice do not constitute a breach of planning control;
    - (c) that the breach of planning control alleged in the notice has not taken place;
    - (d) in the case of a notice which, by virtue of section 87(4) of this Act, may be issued within the period of four years from the date of the breach of planning control to which the notice relates, that that period had elapsed at the date when the notice was issued;
    - (e) in the case of a notice not falling within paragraph (d) of this subsection, that the breach of planning control alleged by the notice occurred before the beginning of 1964;
    - (f) that copies of the enforcement notice were not served as required by section 87(5) of this Act;
    - (g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 87(10) of this Act;
    - (h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.
  - (3) An appeal under this section shall be made by notice in writing to the Secretary of State.
  - (4) A person who gives notice under subsection (3) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed by regulations under subsection (5) of this section\*, a statement in writing—
    - (a) specifying the grounds on which he is appealing against the enforcement notice; and
    - (b) giving such further information as the regulations may prescribe.
  - (5) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection—
    - \* (a) may prescribe the time within which an appellant is to submit a statement under subsection (4) of this section and the matters on which information is to be given in such a statement;

\*NOTE: The Secretary of State has specified that such a statement must be submitted to him either when the appellant is giving notice of appeal, or within 28 days from the date on which the Secretary of State sends the appellant a notice requiring such a statement to be submitted.

- (b) may require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (c) may specify the matters to be included in such a statement;
  - (d) may require the authority or the appellant to give such notice of appeal under this section as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated;
  - (e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (6) The Secretary of State—
- (a) may dismiss an appeal if the appellant fails to comply with subsection (4) of this section within the time prescribed by regulations under subsection (5); and
  - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (b), (c) or (e) of subsection (5) of this section within the period prescribed by the regulations.
- (7) Subject to subsection (8) below, the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (8) The Secretary of State shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (a) of subsection (6) of this section or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection.
- (9) If—
- (a) a statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but
  - (b) the appellant does not give information required under paragraph (b) of that subsection to each of the specified grounds within the time prescribed by regulations under subsection (5) of this section,
- the Secretary of State may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.
- (10) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(11) Schedule 9 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.

**88A.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.

(2) On such an appeal the Secretary of State may correct any informality, defect or error in the enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the local planning authority.

(3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

**88B.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State may—

- (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
- (b) discharge any condition or limitation subject to which planning permission was granted;
- (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.

(2) In considering whether to grant planning permission under subsection (1) of this section, the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations; and any planning permission granted by him under that subsection may—

- (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
- (b) be granted subject to such conditions as the Secretary of State thinks fit;

and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(3) Where an appeal against an enforcement notice is brought under section 88 of this Act, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (1) of this section—

- (a) any planning permission granted under that subsection shall be treated as granted on that application;
- (b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and
- (c) for the purposes of section 34 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.

(4) On an appeal under section 88 of this Act against an enforcement notice relating to anything done in contravention of a condition to which section 71 of this Act applies, the Secretary of State shall not be required to entertain the appeal in so far as the appellant claims that planning permission free from that condition ought to be granted.

#### **Penalties for non-compliance with enforcement notice**

**89.**—(1) Subject to the provisions of this section, where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to a fine.

(2) If a person against whom proceedings are brought under subsection (1) of this section has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.

(3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps were attributable, in whole or in part, to the default of the subsequent owner—

- (a) the subsequent owner may be convicted of the offence; and
- (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.

(4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable—

- (a) on summary conviction to a fine not exceeding £100 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of the use of land) remain unfulfilled; or
- (b) on conviction on indictment to a fine.

(5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £1,000, or on conviction on indictment to a fine; and if the use is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £100 for each day on which the use is so continued, or on conviction on indictment to a fine.

(6) Any reference to this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith of such extended period as the local planning authority may allow for compliance with the notice.

**Note.**—Attention is also directed to section 91 relating to the execution and costs of works required by enforcement notice; section 110 which contains supplementary provisions as to appeals to the Secretary of State and section 243 relating to the validity of