

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Cholesbury Agricultural Services
Nine Acres
Chesham Road
Wigginton
Nr Tring Herts

A E King
Dovecot Barn
Alder Park Meadows
Long Marston
Tring Herts

Continued use of barn for Agricultural Engineer's workshop
and alterations to access
at Land adjacent to Nine Acres, Chesham Road, Wigginton

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 refuse the development proposed by you in your application dated 30 March 1989 and received with sufficient particulars on 3 April 1989 and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:—

The site is within the Metropolitan Green Belt on the adopted Dacorum District Plan wherein permission will only be given for use of land, the construction of new buildings, changes of use of existing buildings for agricultural or other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. No such need has been proven and the proposed development is unacceptable in the terms of this policy.

2. Policy 48(2) of the adopted Dacorum District Plan states that planning permission for new industrial buildings, extensions to existing industrial buildings or changes of use of existing buildings to industry will normally only be granted where the proposal is located either within an existing industrial area indicated on the "Proposals Map". The site is not located within such areas and, by reason of the nature of the use and its impact upon the surroundings including its seriously detrimental effect upon the amenities of nearby residents, it is considered that the use cannot be accepted as an exception to this policy.

Dated day of 19

Signed.....

Chief Planning Officer

SEE NOTES OVERLEAF

P/D. 15

NOTE

1. 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 s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form obtainable from the Secretary of State for the Environment, Tollgate House, Houlton Street, Bristol, BS2 9DJ). 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.
2. If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment 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 Borough Council in which the land is situated, 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.
3. 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 s.169 of the Town and Country Planning Act 1971.

Reasons continued:-

3. Formation of the new access track will necessitate the removal of roadside hedging in order to provide satisfactory sightlines which will be detrimental to the character and appearance of this rural area within the Chilterns Area of Outstanding Natural Beauty, wherein it is the policy of the local planning authority to seek to preserve the appearance of the area, encourage agriculture and conserve wildlife by the restriction of further development.

Dated Seventeenth day of August 1989

Signed: _____



Chief Planning Officer

TOWN AND COUNTRY PLANNING ACT 1971
(as amended)

STOP NOTICE

To: Mr. T. THOMPSON
of: CHILTERN FARM, CHOLESBURY ROAD,
WIGGINTON, HERTFORDSHIRE.

being a person [who has an interest in] [engaged in the activity hereinafter referred to on] the land described in the Schedule hereto.

WHEREAS

(1) The DACORUM BOROUGH COUNCIL (hereinafter called "the Council") are the Local Planning Authority for (*inter alia*) the purposes of Part V of the Town and Country Planning Act 1971 (hereinafter called "the Act").

(2) The land described in the Schedule hereto (hereinafter called "the said land") is land in respect of which the Council have issued and served on you a copy of an enforcement notice dated the 15th day of May 1989, under section 87 of the Act, a copy of which is also attached hereto.⁽¹⁾

NOW THEREFORE TAKE NOTICE that in exercise of the powers contained in section 90 of the Act the Council **DO HEREBY PROHIBIT** each and every person on whom this Stop Notice is served from carrying out or continuing on the said land the following activity namely⁽²⁾
the use of the land for the purpose of carrying out the repairing and storage of plant

AND FURTHER TAKE NOTICE that if, while this notice has effect in relation to any person, that person carries out or causes or permits to be carried out any operations prohibited by this notice, he will be guilty of an offence and liable on summary conviction to a fine of up to ~~£1,000~~ 2000 or on conviction on indictment to ~~a fine~~ an unlimited fine.

THIS NOTICE SHALL TAKE EFFECT on the⁽³⁾ 19th 24th day of May 1989.

THIS NOTICE will continue to have effect until it is withdrawn by the Council by a notice for that purpose or until the enforcement notice hereinbefore referred to is withdrawn or quashed, or until the period allowed for compliance with the enforcement notice expires, and also if or to the extent that the activities prohibited by this notice cease, on a variation of the enforcement notice, to be included in the matters alleged by that notice to constitute a breach of planning control.

SCHEDULE⁽⁴⁾

The land or premises to which this notice relates comprises land adjacent to "Nine Acres", Chesham Road, Wigginton, Hertfordshire shown edged red on the attached plan.

DATED this 15th

day of May 1989.

Civic Centre, Marlowes
Hemel Hempstead
Herts HP1 1HH
Ref: SB/2447/323

Signed Keith Hunt
Borough Secretary ⁽⁵⁾

Address to which all communications are to be sent.

(The officer appointed for this purpose)

IT IS IMPORTANT THAT YOU SHOULD READ THE STATUTORY PROVISIONS SET OUT OVERLEAF.

- (1) This is a statutory requirement. See section 90 (1).
(2) This must be the same, or substantially the same activity as that specified in the enforcement notice.
(3) The date of taking effect must not be earlier than 3 nor later than 28 days from the date on which the stop notice is first served on any person.
(4) Describe the land preferably by reference to a plan
(5) Insert title of proper officer.

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

Stop notices

Power to stop further development pending proceedings on enforcement notice.

90.—(1) Where in respect of any land the local planning authority—

- (a) have served a copy of an enforcement notice requiring a breach of planning control to be remedied; but
- (b) consider it expedient to prevent, before the expiry of the period allowed for compliance with the notice, the carrying out of any activity which is, or is included in, a matter alleged by the notice to constitute the breach,

then, subject to the following provisions of this section, they may at any time before the notice takes effect serve a notice (in this Act referred to as a "stop notice") referring to, and having annexed to it a copy of, the enforcement notice and prohibiting the carrying out of that activity on the land, or on any part of it specified in the stop notice.

(2) A stop notice shall not prohibit—

- (a) the use of any building as a dwellinghouse, or
- (b) the use of land as the site for a caravan occupied by any person as his only or main residence (and for this purpose "caravan" has the same meaning as it has for the purposes of Part I of the Caravan Sites and Control of Development Act 1960), or
- (c) the taking of any steps specified in the enforcement notice as required to be taken in order to remedy the breach of planning control;

and where the period during which an activity has been carried out on land (whether continuously or otherwise) began more than twelve months earlier, a stop notice shall not prohibit the carrying out of that activity on that land unless it is, or is incidental to, building, engineering, mining or other operations or the deposit of refuse or waste materials.

(3) A stop notice shall not take effect (and so cannot be contravened) until such date as it may specify, being a date not earlier than three nor later than twenty-eight days from the day on which it is first served on any person.

(4) A stop notice shall cease to have effect when—

- (a) the enforcement notice is withdrawn or quashed, or
- (b) the period allowed for compliance with the enforcement notice expires, or
- (c) notice of the withdrawal of the stop notice is first served under subsection (6) of this section;

and a stop notice shall also cease to have effect if or to the extent that the activities prohibited by it cease, on a variation of the enforcement notice, to be included in the matters alleged by the enforcement notice to constitute a breach of planning control.

(5) A stop notice may be served by the local planning authority on any person who appears to them to have an interest in the land or to be engaged in any activity prohibited by the notice; and where a stop notice has been served in respect of any land, the authority may display there a notice (in this section referred to as a "site notice") stating that a stop notice has been served and that any person contravening it may be prosecuted for an offence under this section, giving the date when the stop notice takes effect and indicating its requirements.

(6) The local planning authority may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on persons served with the stop notice and, if a site notice was displayed in respect of the stop notice, displaying a notice of the withdrawal in place of the site notice.

(7) If any person contravenes, or causes or permits the contravention of, a stop notice—

- (a) after a site notice has been displayed, or
- (b) if a site notice has not been displayed, more than two days after the stop notice has been served on him,

then, subject to subsection (8) of this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to a fine; and if the offence is continued after 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 offence is continued, or on conviction on indictment to a fine.

(8) In proceedings for an offence under this section it shall be a defence for the accused to prove that the stop notice was not served on him and that he did not know, and could not reasonably have been expected to know, of its existence.

(9) A stop notice shall not be invalid by reason that the enforcement notice to which it relates was not served as required by section 87(5) of this Act if it is shown that the local planning authority took all such steps as were reasonably practicable to effect proper service.

(10) Any reference in this section to the period allowed for compliance with an enforcement notice shall be construed in accordance with section 89(6) of this Act.

Compensation for loss due to stop notice.

177.—(1) A person who, when a stop notice under section 90 of this Act is first served, has an interest in or occupies the land to which the stop notice relates shall, in any of the circumstances mentioned in subsection (2) of this section, be entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice (or, in a case within paragraph (b) of that subsection, so much of that prohibition as ceases to have effect).

(2) A person shall be entitled to compensation under subsection (1) of this section in respect of a prohibition contained in a stop notice in any of the following circumstances:—

- (a) the enforcement notice is quashed on grounds other than those mentioned in paragraph (a) of section 88(2) of this Act;
- (b) the enforcement notice is varied, otherwise than on the grounds mentioned in that paragraph, so that the matters alleged to constitute a breach of planning control cease to include one or more of the activities prohibited by the stop notice;
- (c) the enforcement notice is withdrawn by the local planning authority otherwise than in consequence of the grant by them of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a condition or limitation subject to which a previous planning permission was granted;
- (d) the stop notice is withdrawn.

(4) A claim for compensation under this section shall be made to the local planning authority within the time and in the manner prescribed by regulations under this Act.

(5) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.

(6) In the assessment of compensation under this section, account shall be taken of the extent (if any) to which the claimant's entitlement is attributable to his failure to comply with a notice under section 284 of this Act or to any mis-statement made by him in response to such a notice.

IMPORTANT:— THIS COMMUNICATION AFFECTS YOUR PROPERTY

(a)

DACORUM BOROUGH

Council

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

**Enforcement Notice
Material Change of Use**

(b) Land adjacent to "Nine Acres", Chesham Road, Wigginton, Hertfordshire

WHEREAS:

(1) It appears to the^(a) **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^(c)

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.^(d)

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

within [the period of six ^(f) days [months] from the date on which this notice takes effect] ^(g) [the period specified in respect of each step in that schedule].^(h)

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88 (10) of the Act, on 15 June 1989 ⁽ⁱ⁾

Issued 15 May 1989

Council's address —

Civic Centre, Marlowes
Hemel Hempstead
Hertfordshire HP1 1HH
Ref: SB/2447/323

(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)

Land adjacent to "Nine Acres", Chesham Road, Wigginton, Hertfordshire

shown edged [red] [] on the attached plan.^(h)

SCHEDULE 2

Alleged breach of planning control

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

A change of use from agricultural use to use for the repairing of and storage of plant.

SCHEDULE 3

Steps required to be taken.^(k)

(i)

Cease using the land or premises for the repairing of and storage of plant.

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.

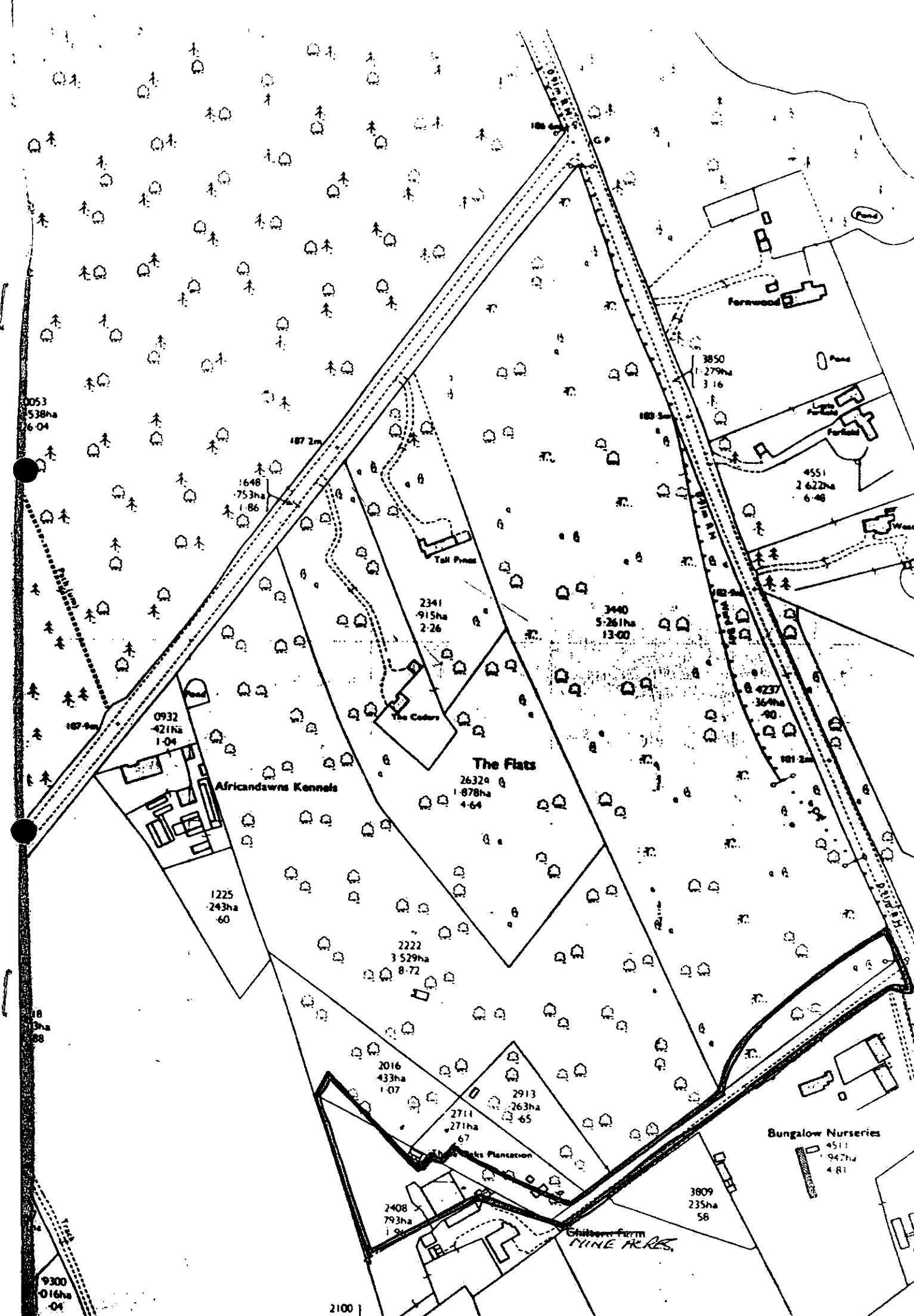
(k) Specify the actual steps to be taken with, if appropriate, the compliance period for each step. The requirements should be clear and precise. See also notes (e) and (f) overleaf.

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 reasons.

1. The site is within the designated Metropolitan Green Belt as shown in the Approved Hertfordshire County Structure Plan 1986 Review and adopted Dacorum District Plan. Within such areas permission will only be given for use of land, the construction of new buildings, changes of use of existing buildings for agriculture or other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. No such need has been proven and the development is unacceptable in the terms of this policy.
2. Policy 48(2) of the adopted Dacorum District Plan states that planning permission for new industrial buildings, extensions to existing industrial buildings or changes of use of existing buildings to industry will normally only be granted where the proposal is located either within an existing industrial area indicated on the "Proposals Map" of the District Plan or in an area shown for industrial development on the "Proposals Map". The site is not located within such areas and, by reason of the nature of the use and its impact upon the surroundings including its detrimental effect upon the amenities of nearby residents, it is considered that the use cannot be accepted as an exception to this policy. Neither could conditions be imposed which would overcome the adverse effects upon the surroundings arising from the development.



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 authority to send to the Secretary of State, within such time as may be prescribed, a statement indicating the grounds on which the appeal is brought; and
- (c) may require the authority to send to the Secretary of State, within such time as may be prescribed, a statement indicating the grounds on which the appeal is brought; and
- (d) may require the authority to send to the Secretary of State, within such time as may be prescribed, a statement indicating the grounds on which the appeal is brought; and
- (e) may require the authority to send to the Secretary of State, within such time as may be prescribed, a statement indicating the grounds on which the appeal is brought; and
- (6) The Secretary of State—
- 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
 - 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 statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but
 - 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—
- 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;
 - discharge any condition or limitation subject to which planning permission was granted;
 - 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—
- 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;
 - 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—
- any planning permission granted under that subsection shall be treated as granted on that application;
 - in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and
 - 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—
- the subsequent owner may be convicted of the offence; and
 - 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—
- 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
 - 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 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.

(a)

Dacorum Borough

Council

TOWN AND COUNTRY PLANNING ACT 1971
(as amended)

Enforcement Notice

Material Change of Use

(b) Land adjacent to "Nine Acres", Chesham Road,
Wigginton, Hertfordshire

WHEREAS:

(1) It appears to the^(a) 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^(c)

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.^(d)

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

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

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88 (10) of the Act, on 1989.^(g)

Issued 1989.

Council's address —

Civic Centre, Marlowes,
Hemel Hempstead.
Hertfordshire, HP1 1HH

(Signed)

(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)

Land adjacent to "Nine Acres", Chesham Road,
Wigginton, Hertfordshire

shown edged [red] [

] on the attached plan.^(h)

SCHEDULE 2

Alleged breach of planning control

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

A change of use from agricultural use to use
for the repairing of and storage of ~~heavy~~ plant.

SCHEDULE 3

Steps required to be taken.^(k)

(i)

Cease using the ~~premises~~ land or premises
for the repairing of and storage of ~~heavy~~ plant.

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):

