Planning Inspectorate

Department of the Environment ollgate House: Houlton Street Bristol BS2 9DJ DACORUM CORCUGH COTON 0272-218915/36/3 Room 1121 Telex 449321 0272-218915/36/38 <u>.027</u>2-1218811 Ack GTN C.P.O. T.C.P.M. 1374 0.PD.C. B.CLovell White Durrantheceived Council Reference 7.DEC 1990 4/0164/90E 4/0163/90E 21 Holborn Viaduct Your Reference Companis LONDON CHIEF EXECUTIVE P2/GHG/LAM/ah/1942w EC1A 2DY OFFICER CAML/SB/Mash Our Reference Lennon and Co ZDEC 1990 T/APE/C/89/A1910/8 & 10/P6 Chess House 105 High Street Refer to ... Chesham BUCKS Cleared HP5 1DE

Date

5 DEC 90

D.o.E. confirmed by telephone that the date of this decision letter is 5th December 1990

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6 APPEALS BY W J AND M MASH LTD AND HERTZ (UK) LTD LAND AT BOVINGDON AIRFIELD

- I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. These appeals are against an enforcement notice issued by the Dacorum Borough Council concerning the above mentioned land. I held an inquiry into the appeals on 24 October 1990 and I inspected the site on the same day.
- The date of the notice is 17 November 1989. 2.
 - The breach of planning control alleged in the notice is the change of use of the land to a use for the storage of motor vehicles.
 - The requirements of the notice are to cease the use of the land for the storage of motor vehicles and to remove all motor vehicles presently stored on the site.
 - The period for compliance with the notice is two months. d.
 - The appeal was made on the grounds set out in S.174(2) (a) and (h) of the 1990 Act.

THE SITE AND SURROUNDINGS

The appeal site is located on land which was formerly part of Bovingdon Airfield, a military airfield constructed during the Second World War. site is a hard paved area, former taxi-ways and parking for aircraft, having some tipped material heaped within its south west boundary. Vehicular access to the site is from Molyneaux Avenue which runs near to the east boundary of the site from Chesham Road to HM Young Offender Institution, The Mount. An area of landscaped ground and the Institution Buildings form the east site

boundary. The south boundary is undefined and open to the large area of former airfield. The west boundary lies along the foot of an extensive bund about 3m-5m in height, beyond which is Bovingdon Raceways and the open expanse of the Airfield.

4. That part of the site edged in red on the plan together with part of the site hatched in blue is enclosed within a security fence, with a barrier access at the south east end. The enclosed area is full of tightly parked cars and there were about 30 vehicles in the south part of the blue hatched area. The enclosed area is lit by floodlights set on the east site boundary. A large tented building contains limited spares and office accommodation is provided in the form of 3 interlinked porta-cabins. There is also a toilet cabin and a waste tank on the enclosed part of the site.

THE NOTICE

5. I was asked by the appellants' Counsel to delete the area hatched in blue from the notice on the basis that cars that were on that site were only there for a short period of time on arrival or awaiting collection and that the use of the land was not for "storage" as alleged in the notice. On this point I have noted earlier that the boundary of the enclosed site extends into the blue hatched area and therefore the blue hatched area does not, as it stands, define accurately any separate activities. In addition, I find that the manoeuvring of vehicles and the short term parking of cars on the south part of the site are ancillary operations within the overall use for car storage on the sites edged red and hatched blue. I shall not therefore make any correction or alteration to the enforcement notice plans as issued.

THE APPEAL ON GROUND (A)

The case for the Appellants

- 6. In support of your clients' case it was stressed that the issue relates only to the suitability of the site in the Metropolitan Green Belt; the other reason for issuing the Enforcement Notice, the highway objection not being pursued by the Council.
- Mr Wright explained the operations of Hertz UK Ltd renting about 30,000 vehicles per annum from over 180 centres around Britain. The fleet is renewed about 3 times per annum and because of the prominence of Heathrow in the operation, most new vehicles are put on the fleet there and subsequently taken off the rental fleet there for disposal. The vehicles on the appeal site are being stored prior to disposal. No suitable site has been found during searches over the last 5 years. Sixteen sites have been examined, many of which had other competing uses. The need is for a site of about 2 ha near to Heathrow and to traffic routes to the north. At Heathrow and other major sites the company's own rental business is being congested by off-rent vehicles awaiting disposal. Independent inspection has to take place before vehicles are disposed of to the motor trade. Problems of extricating vehicles from a tightly parked area and of likely damage and subsequent need for repair were outlined. Where no sites are available vehicles are stored in multistorey car parks in major cities having an impact on the profitability of the operation and taking car parking spaces out of use where there is a local need.
- 8. In May 1989, the Bovingdon site was identified as providing a temporary solution to the company's exceptional needs having a storage capacity of up to 900 vehicles generating approximately 8-10 car transporter movements in any 24 hour period. If the Bovingdon site ceases to be available to the Company, operational difficulties will recur. The Company is seeking a temporary grant of planning permission for a period of 2 years.



- 9. Your clients' planning witness said that the site is completely screened from the village by the Young Offender Centre and from the west by the bund. Only the 2 storey pitched roofs of the Centre are visible across the airfield. There are various temporary, intermittent and unauthorized uses on the former airfield including concrete crushing, tipping, plant storage, a Sunday Market with its associated parking and a motor raceway. All these activities give the airfield a despoiled appearance. A proposed modification of the Green Belt would take out of Green Belt use the land to the east of Molyneaux Avenue. It was argued that the bund to the west of the site would form a more dominant physical feature and therefore a more appropriate Green Belt boundary.
- 10. In the District of Chiltern in which most of the airfield is situated, planning permission has been granted for the open air market by the Secretary of State for the Environment. The bund which has been constructed on the west site boundary was to screen the Young Offender Centre and to provide some noise attenuation around the motor raceway. Within the Dacorum District, part of the airfield is being used for the deposit of waste material and for car parking associated with the market. Attention was drawn to National Policy in Planning Policy Guidance Note 2 and in Circular 1/85. It was accepted that the use does not conform to the Local Plan but a temporary use was thought to be appropriate because the Council had not raised any amenity objection. The Hertfordshire County Structure Plan 1986 Review (May 1988) the Dacorum Local Plan (1984) and the Draft Dacorum Borough Local Plan were also referred to.
- 11. It was the view of your clients that "very special circumstances" can be a determining consideration when development in the Green Belt is being investigated and 2 decision letters were quoted in support. The Young Offender Centre and the earth bund have both been built since the grant of planning permission for the Sunday Market in 1977. The physical circumstances of the area have therefore changed and created a site which is more acceptable. The use for the parking of cars will not change the character of the land. The impact of the use of the site on the general public is negligible. By permitting the use for a limited period, any relevant Green Belt function would not be jeopardized. None of the 5 functions of the Green Belt set out in PPG 2 would be harmed by the development.

The case for the Council

- 12. The Council refused planning permission for the temporary use of the land for the storage of vehicles in September 1989 primarily for Green Belt and traffic reasons. Both the County Structure Plan Review, May 1988 and the Dacorum District Plan, 1984 show the site as being within an area of approved Green Belt, where there is a presumption against any form of development not associated with agriculture or small scale leisure facilities, in accordance with the provisions of PPG2.
- 13. The purpose of the Green Belt is to act as a barrier against the spread of development and the merging of existing settlements, as well as to provide an area of recreation and enjoyment and to protect the rural character. The establishment of a commercial business does not achieve these aims neither does the open parking of cars and the creation of compounds and buildings. The appellants have not demonstrated effectively that other sites are not available and the Council do not accept that because the site has contributed little to the character of the Green Belt, a temporary use of the site would be appropriate.



- 14. The Council only permit such uses on the airfield as are appropriate in the Green Belt, where they would otherwise anticipate that the restoration to agriculture would predominate. It was accepted that there was little realistic hope that full scale agricultural use would be likely to take place on the site. It would be damaging to policies if planning permission were to be granted for this use because of the effect on local amenity and because it would be likely to perpetuate the present state of the site. It was accepted that the compound was well screened, but cars litter that part of the site which is hatched blue creating an untidy appearance. The development if allowed would create an undesirable precedent in the locality.
- 15. Although no specific references were made to the environment or amenity, the Council said that the presence of the vehicles was evidence of visual intrusion. The site can be seen from Chesham Road when travelling in a north easterly direction and also from the houses at Dinmore. The bund and the Young Offender Centre have minimized the contribution this land would make to the Green Belt. The Council stressed that all the other activities on the airfield are of a random and infrequent nature and not at all commensurate with the storage of a large number of cars. Although the Council acknowledged the need of the appellants, they did not consider it to be an essential one in this locality.

Interested Persons

16. All those who spoke at the inquiry, with one exception, supported the position of the Council but mainly for reasons of traffic, narrow footways in the village, the movement of transporters at all times of day and the general level of noise. Mr Bartlett, a resident of Chesham Road and now retired, expressed some sympathy with the appellants in their desire to pursue their business.

THE APPEAL ON GROUND (H)

The case for the Appellants

17. On this ground it was the appellants' case that a time period of 2 months for the removal of about 800 cars from the site would be too short a period. No other sites have been found to accommodate the cars and even if a suitable site were found, it would take a considerable time to remove all the cars. A period of 6 months was sought especially at the present time when cars are difficult to sell.

The case for the Council

18. It was the Council's view that the period of 2 months which is in the notice was equal to the period of time taken to establish the Herz operation on the site. They accepted that the period specified was probably not enough having heard the case put forward by the appellants. Their considered opinion was that a period of 4 months should be adequate.

CONCLUSIONS

19. From my inspection of the site and the surrounding area and from all the representations, I consider that the∫main issue is whether there are any very special circumstances in support of your clients' appeals which would be of sufficient strength to overcome the strong presumption against the open storage of vehicles in an area of Metropolitan Green Belt.

- 20. Although the Council did not pursue their objection to the development on highway grounds, there was a significant level of concern expressed by local residents in relation to the movement of car transporters at all times of day and night, additional traffic on the main routes in Bovingdon, likely traffic accidents and noise. These matters would require consideration if all other aspects of the suitability of the use of the Green Belt site were found to be supportive of your clients' development.
- That the appeal site is within an area of approved Green Belt is not in question. It was accepted on behalf of your clients that car storage is not normally an appropriate use when set against Local and National Green Belt Policies. From this standpoint it is necessary to consider what harm could result from the storage of cars on the appeal site. (I find little difference between the temporary use which your clients seek and a permanent use. seems to me from the presentation of the case that there was some ambiguity, in that although a temporary permission was sought, a permanent permission would also be acceptable. Your clients were unable to explain to me why the site would be unacceptable for the company on a permanent basis. Paragraph 83 of circular 1/85 advises that the material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one. A "trial run" has already taken place and the effect of the development has already been apparent since about July 1989.
- f All other uses of the airfield site are of an intermittent or random nature most notably the Sunday Market and the Raceway. The airfield has remained essentially open in character notwithstanding the market stalls which remain on site for longer periods. The bunds are not excessively harsh features and their presence is justified by their attenuation of noise from the Raceway and by the visual amenity provided in an otherwise unrelieved landscape against the backdrop of the Young Offender Centre. Clearly the appeal site, between the bunds and the Young Offender Centre is not particularly attractive in its own right and it is partially secluded at its northern end, but the quality of the rural landscape is not a material factor in the designation of Green Belts or in their continued protection. I note the draft proposals for the amendment of the Green Belt boundary in the locality of the appeal site. This however is not a matter for my consideration and I would only record that even were such an amendment to be approved, the status of the appeal site would not be altered. The essential purpose of the Green Belt around Bovingdon is to safeguard the surrounding countryside from further encroachment.
- 23. To allow continuous storage in the open of up to 900 cars is tantamount to allowing "purpose built" development. It would undoubtedly be cited as a precedent on the airfield and in the locality generally where similar circumstances are likely to be found and where an accumulation of any form of development on this vulnerable edge of the Green Belt would be harmful.
- 24. I have considered the business needs of Hertz UK Ltd who currently employ 10 people on the appeal site. The firm is not a local one, its major activity area being at Heathrow Airport and whilst I acknowledge that many possible sites have been investigated by the Company none have been pursued to planning application stage. The sites investigated have included locations in Bedfordshire, Reading, Richmond and Slough indicative of the wide area of search and supportive of the lack of particular association with the Bovingdon area.

-3---

- 25. The appeal decision referred to for the site at Kidlington shows nearby and probably related areas of industrial use associated with the motor trade. The appeal decision at Kings Langley concerned a very small area of land for parking almost directly opposite the printing firm which intended to use it. In both cases therefore there were strong links with adjacent land uses or landowners, aspects which are not present here. If have noted the difficulties your client has experienced in locating possible sites but they do not outweigh the more significant factors set out above. The imposition of conditions on any grant of approval would not create an acceptable development on the appeal site. I find that the car storage activity would cause demonstrable harm to Green Belt Policies in the area and the appeals therefore fail on ground (a).
- 26. The appeals on ground (h) seek an extended period for compliance of 6 months. I accept that the fact that it took 2 months to bring the site into operation, does not necessarily imply that it would take 2 months to clear all the cars from the site. Bearing in mind the difficulties that your clients have had in trying to acquire a suitable site and the exhortations in various Circulars and Planning Policy Guidance Notes to avoid unreasonably disrupting business interests, I shall extend the period for compliance with the notice to 5 months. To this extent therefore the appeals succeed on ground (h).
- 27. I have taken account of all the other matters raised in the representations including the possibility of using another access to the site, but in my judgement, none of them are sufficient to outweigh the planning considerations which have led to my decision.

FORMAL DECISION

28. For the above reasons and in exercise of the powers transferred to me, I hereby direct that the period for compliance with the notice be varied by the deletion from paragraph 4 of the recital of the notice of the words "two months" and the substitution therefor of the words "five months". Subject thereto, I dismiss your clients' appeals, uphold the notice and refuse to grant planning permission on the applications deemed to have been made under Section 177(5) of the Act.

RIGHT OF APPEAL AGAINST DECISION

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

I am Gentlemen Your obedient Servant

D A Hill BSc CEng MICE Inspector

ENC

APPEARANCES

FOR THE APPELLANTS

Mr P M Village

instructed by Lovell White Durrant, 21 Holborn Viaduct London and by Lennon and Co, Chess House, 105, High Street, Chesham, Bucks.

He called

Mr A Wright

Property Manager, Hertz (UK) Ltd

Mr M Burroughs BA MRTPI FRSA Planning Consultant Michael Burroughs Associates,

84 Ebury Street London.

FOR THE PLANNING AUTHORITY

Mr A Barker

Solicitor with Dacorum Borough

Council.

He called

Mr J E Knapp Dip TP MRTPI Principal Planning Officer with the Council.

INTERESTED PERSONS

Mrs J Sniders

Parish Councillor and spokeswoman for

Bovingdon Parish Council.

Mrs V Briselden

Chairman of the Governors of Bovingdon Schools and Vice Chairman of The Mount, HM Young Offender Institution, Board of Visitors.

Dr Anderson

County Councillor for the area Leaside, Rucklers, Kings Langley.

Mrs C Deacon

Local Resident - 34 Dinmore

Bovingdon.

Mrs M Nash

Local Resident Clematis Cottage,

Howard Agne Close.

Miss A Rice

Local Resident

58, Howard Agne Close.

Mrs J Thirlwell

Local Resident

58 Chesham Road Bovingdon.

DOCUMENTS

Document	1	List of persons present at the Inquiry.
11	2	Notification of Inquiry and circulation list.
17	3	Letter from Bovingdon Parish Council.
n	4	Letter from The Home Office HM Prison Service.
Ħ	5	Two letters in support of the Council.
11	6	Copy of statement read by Mrs Briselden.
п	7	Schedule of sites researched by Hertz (UK) Ltd since January 1989.
II	8	Twelve appendices to Mr Burrough's evidence.
11	9	Seven appendices to Mr Knapp's evidence.
tr.	10	Suggested draft conditions by the appellants.
		PLANS
Plan	A	Enforcement Notice Plan - Scale 1:2500
n	В	General Location Plan

Appeal site and surroundings - Scale 1: 2500

Proposed Alteration to the Green Belt Boundary.

Chief Planning Officer



То	Hertz 25 Dov		
	London	WIX	3PA

P/D.15

Michael Burroughs Associates 25 Dover St London WIX 3PA

Temporary use of land for the storage of cars	
at Bovingdon Airfield Chesham Road, Bovingdon	Brief description and location of proposed development.
In pursuance of their powers under the above-mentioned Acts and the Orders and 8 being in force thereunder, the Council hereby refuse the development proposed by you in 30 June 1989 and received with s 21 July 1989 and shown on the pla application.	your application dated
The reasons for the Council's decision to refuse permission for the development are:—	
 The site is within the Metropolitan Green Belt on the adeplan wherein permission will only be given for use of law of new buildings, changes of use of existing buildings for other essential purposes appropriate to a rural area or for participatory sport or recreation. No such need has proposed development is unacceptable in the terms of this. The increased traffic likely to be generated by the developmential hazard on adjacent highways, particularly in the Bovingdon, which are already used to capacity at peak time. The submitted plans do not contain satisfactory details of the application site or of the means of access to it. 	nd, the construction or agricultural or small scale facilities been proven and the spolicy. lopment would be a ne settlement of
Dated 7th day of September	1989 MSana ()
SEE NOTES OVERLEAF	

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). 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 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.
- 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.

DATED the 24th cay of November 1999 IN THE HIGH COURT OF JUSTICE
GUEEN'S BENCH CIVISION
CROWN OFFICE LIST
BEFORE THE HONOURABLE MR JUSTICE ROCH.



In the matter of an application for Judicial Review

The Queen. v. Dacorum Barongh Comment

Ex parte HERTZ (UR) XINITED

300x 457/0 300x 457/0 FOLIO 5 Co/1941/89

UPON HEARING MP P. Village of Course

senall of the above named Applicant for leave to issue a Notice of Motion for Tudicial Review of a decision of the

Sawrum Borough Corneil made on so before 17th November 1989 to Serve a Stop Notice on the Applicant under Section 90 Town and Country Planning Act 1971

SWOTH THE 23rd day of November 1989

together with the exhibit(s) referred to therein filed on behalf of the Applicant in support of this application

AND UPON READING the Statement ladged pursuant to Order 53 Rule 3(2) of the Rules of the Supreme Court

IT IS ORDERED that this application be allowed and that the said Applicant do have leave to issue a Notice of Motion for Judicial

Review as aforesaid

AND DIRECTED That he AND IT IS FURTHER ORDERED that all further proceedings in pranting of leave Levein Shall operate as a Star of the Stop Notice and that the Lower faxe up determination of the aforesid Motion or further Order further proceedings thereof without the lease of the Lourt. The Respondent be at liberty to apply for reconsideration of the Court's Edirections on giving 48 hours notice in writing to Ra Applicant's Solicitors. AND IT IS FURTHER OR GRED That the books of today's application be reserved.

(This matter occupied the time of the Court from 10.30 am to 10.55 am)

By the Court

Solver for the Applicant Messs. Novell White Durrant 21 Holborn Viaduct Kman ECIA, 224 Ref: P2/GHG/1144X.

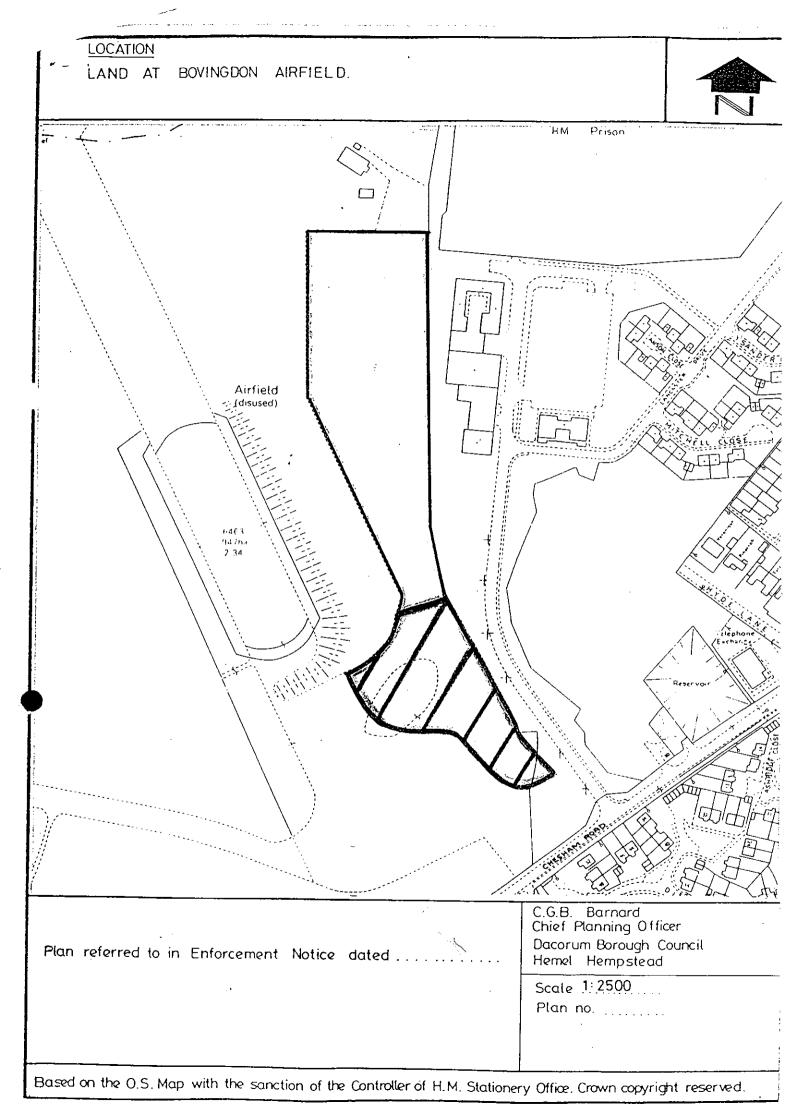
IMPORTANT — THIS NOTICE AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1971 * DACUERUM BURGUEST Council
STOP NOTICE
To: Ms Mash of Toxcington Faran Chesham Bucks
WHEREAS:
(1) The Dacocum Bornegh Council, being the local planning authority for the land to which this notice relates, have issued an enforcement notice (dated 17th November 1981), under section 87 of the Town and Country Planning Act 1971, alleging that there has been a breach of planning control on the land described in Schedule 1 to this notice; and
(2) The Council consider it expedient to prevent, before the expiry of the period allowed for compliance with the requirements of the enforcement notice, the activity alleged to constitute or form part of the alleged breach of control.
NOTICE IS HEREBY GIVEN that the Council, in exercise of their power in section 90 of the 1971 Act, now prohibit the continuation of the activity specified in Schedule 2 to this notice.
A copy of the related enforcement notice, issued under section 87 of the 1971 Act, is annexed to this notice.
This notice shall take effect on 27th November 1984, when all the activity specified in Schedule 2 to this notice shall cease.
DATED 17 November 1989
Signed M. Rugnley Au stant Secretary (Legal) The officer appointed for this purpose)
SCHEDULE 1
The land or premises to which this notice relates comprises land at (address or brief identifying details of the land) Boring don Hereford shire shown edged in red on the annexed plan. and thereon also hatched blue.
SCHEDULE 2
The activity to which this notice relates is [operational development consisting of
[the use of the land for the purpose of the stronge of motor vehicles
[the continuing breach of Condition: No.
on the planning permission granted on 19 3].
DACORUM ROROCIONI COLINICEL LAVIC CENTRE MARLOWCS
HEMEL HEMPSSENS HPI 1HH Address to which all communications are to be sent

NOTES

(Delete any words in square brackets which do not apply.)

1. for use when the prohibited activity is "operational development".



IMPORTANT — THIS NOTICE AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1971		
* DACURUM BUROUGH Council		
Directed vs. Bridge St. C.		
STOP NOTICE		
Ma Mad a Tracia In Facin	,	
To: Mr Mush of Toxxington Farm Chesham Bucks		
Chel Wan Brenz		•
WHEREAS:		
(1) The Dacerum Bonagh being the local planning authority for the land to which this notice relates, have an	rol on the	
(2) The Council consider it expedient to prevent, before the expiry of the perior compliance with the requirements of the enforcement notice, the activity alleged to for form part of the alleged breach of control.	constitute	
NOTICE IS HEREBY GIVEN that the Council, in exercise of their power in section 971 Act, now prohibit the continuation of the activity specified in Schedule 2 to this r	ionee.	
A copy of the related enforcement notice, issued under section 87 of the 1971 Act, is a this notice.		
This notice shall take effect on 27th Neverthern 1984, what we have the shall cease.	nen ali the	
DATED 17 November 1989		
•		
Signed VC IVI hughey	1 1	•
Signed M. Rugnley Au 11 tant Seuchan '(Legal The officer appointed for this	s purpose)
SCHEDULE 1		
The land or premises to which this notice relates comprises land at (address or brief identifying deta	ils of the land)
Bournadan Wirfield Chesham Road Boringdon Herefordish	11/4	
shown edged in red on the annexed plan. cycl therein also hatched blue		
SCHEDULE 2		
The activity to which this notice relates is [operational development consisting of		
[the use of the land for the purpose of the sureye of motor vehicles	I]
	2]
[the continuing breach of Condition: No.		
on the planning permission granted on	1 9	.
MACLICUM PERSONEL COMPACE CAVAC CENTRAL MINECOLLS		
HEREC MERTINERS IN 1411		
Address to which all communications are to be sent. (Delete any words in square brackets which do not apply.)		

NOTES

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