

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



## DACORUM BOROUGH COUNCIL

To Mr K J Catling  
27 Cromer Close  
Little Gaddesden  
Berkhamsted

Use of building for car repair workshop

at Widmore Farm, Bradden Lane, Gaddesden Row

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 9 October 1987 and received with sufficient particulars on and shown on the plan(s) accompanying such application..

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

- (1) The site is within a rural area beyond the 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) The establishment of a car repair business in this location, which is part of the Chilterns Area of Outstanding Natural Beauty, would be likely to have serious and adverse effects on the amenity of the area as a result of disturbance and visual intrusion, and could also lead to increased traffic which would be a hazard on the narrow roads leading to the site.

Dated Twenty-second day of December 1987

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.



**Department of the Environment  
Department of Transport**

Common Services

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PLANNING DEPARTMENT  
DACORUM DISTRICT COUNCIL/A1901/JM/P

927

20 SEP 1988

Mr K J Catling  
27 Cromer Close  
LITTLE GADDESSEN  
Berkhamsted

26564  
**CHIEF EXECUTIVE  
OFFICER**

20 SEP 1988

File no.

Refer to

Cleared

Your reference

Our reference

Date

T/APP/A1910/A/88/088973/P4

19 SEP 88

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPLICATION NO: 4/1558/87

1. I have been appointed by the Secretary of State for the Environment to determine your appeal. Your appeal is against the decision of the Dacorum District Council to refuse planning permission for use of redundant farm building as a workshop for repairing cars, at Widmore Farm, Gaddesden Row, Hemel Hempstead, Herts. I have considered the written representations made by you and by the council and by the Great Gaddesden Parish Council and also those made by other interested persons. I inspected the site on 11 July 1988.
2. From my inspection of the site and surroundings, and from the representations made, I am of the opinion that the decision in this case turns upon whether there are grounds in this instance for setting aside the presumption against development in a rural area that lies within an Area of Outstanding Natural Beauty.
3. The appeal building is already used as a vehicle repair workshop. It was built some 8 years ago on Widmore Farm as a farm vehicle and implement repair workshop. It is a brick built lean-to structure attached to the side of a large barn close to the frontage with Bradden Lane. It is about 6 m wide by 9 m long. Parking spaces for 2 vehicles adjoin this workshop. The existing use as a repair workshop does not have the benefit of planning permission.
4. You state that your father first permitted you to use this building as a commercial workshop to service farm vehicles and the cars of friends and relatives in December 1986. The building had become available because your father was semi-retired. You then expanded your activities by seeking business outside the circle of your acquaintances. Vehicles are stored in the workshop overnight because vandalism precludes their being stored externally. You usually collect vehicles from customers's premises, and return them when the work on them is completed. On average, 7 vehicles a week pass through the workshop.
5. The farm lies within a rural area outside the boundaries of any recognised settlement. Hence Policy numbers 1 and 18 of Alteration No 1 of the Hertfordshire Structure Plan apply, together with Policies numbers 2 and 9 of the Dacorum District Plan. Together, these set a strong presumption against development in rural areas

outside villages. These policies follow nationally established policies of restraint upon development in rural areas as set down in Development Control Policy Note No 4. I consider it is important that these policies of restraint are upheld here, as the character of the countryside would be diminished if a scatter of new development were allowed to occur within it. Further, such developments would be both difficult and expensive to service, and in this locality, would apparently take up high grade agricultural land.

6. I have weighed this presumption against Government Circular 16/87, and Planning Policy Guidance Note No 7. The former points out that the re-use of existing buildings in the countryside can help reduce the need for new buildings, and additionally, helps new enterprises and provides new jobs. It advises that many activities may be carried on in rural areas without causing unacceptable disturbance, and that proposals for the re-use of redundant buildings should not be refused unless there are specific and convincing objections which cannot be overcome by attaching reasonable conditions to a planning permission. This advice is echoed in paragraphs 18 and 19 of the Planning Policy Guidance Note.

7. The Chief Planning Officer to the council considers that there is no evidence that the appeal building was redundant from its previous use. You point out that your father is semi-retired, and state that it is now redundant. I note that the proposed use forms an extension of its original agricultural use. As your father is semi-retired, I appreciate that the intensity of his use of the farm buildings has decreased. I am therefore willing to accept that the appeal building is no longer required for agricultural purposes, and hence that it is redundant. I have therefore reached the conclusion that the advice contained in Circular 16/87 and PPGN No 7 outweighs the presumption in the Structure Plan against development in the countryside.

8. I consider that the operation of a car repair workshop could have an adverse impact upon the character of the rural area. The Chief Planning Officer to the council comments the use may not give rise to unacceptable disturbance or intrusion in this rural area. However, he is concerned that enforceable conditions may not be able to prevent a growth in the scale of the enterprise. In order to overcome this problem, you propose a wide range of restrictive conditions including; making the planning permission personal to yourself, restricting the number of vehicles on site for repair to 2, prohibiting the storage of vehicles outside the workshop overnight, confining all work to the workshop, prohibiting the external storage of goods and broken down cars, and restricting the period of operation of the business to socially acceptable hours.

9. I consider that your existing scale of operation as controlled by the conditions you propose is unlikely to adversely affect the interests of the rural area or its inhabitants. Further, I do not regard the transportation to and from the site of about 7 vehicles a week as being likely to adversely affect road safety as feared by your neighbours. I regard the noise generated by the repair of motor vehicles as possibly being intrusive in the countryside. However, I consider that this intrusion may be overcome by imposing a condition requiring that the building be insulated to the satisfaction of the council.

10. Although I consider that your business is unlikely to have an adverse impact upon the character and amenities of this rural area, this will only be the case if you comply with the conditions attached to the planning permission. Should you not comply with them, there will be an unacceptable impact upon the area. I am

therefore reducing the life of the planning permission to 2 years, because I regard this as the minimum period in which you are able to demonstrate that your business will not have an adverse impact upon the locality. If during that period the business causes no harm to the locality and your neighbours' amenities, then it would be reasonable for this planning permission to be renewed. If, due to your breaching these conditions or for any other reason it causes demonstrable harm, then the council will be fully justified in refusing to renew the grant of planning permission.

11. The site lies within the Chilterns Area of Outstanding Natural Beauty. Hence Policy number 21 of Alteration No 1 of the Hertfordshire Structure Plan applies together with Policy number 23 of the Dacorum District Plan. These make the preservation of the visual character of the area a prime consideration. I am satisfied that the conditions you propose prohibiting the storage of vehicles externally overnight and precluding the storage of parts and broken down cars externally, together with that confining all operations to the workshop, will ensure that your business does not detract from the character of the Area of Outstanding Natural Beauty.

12. I have therefore reached the conclusion that there are grounds in this instance for setting aside the presumption against development in a rural area that lies within an area of Outstanding Natural Beauty.

13. I have considered all other matters raised, including your personal circumstances, and the condition of the appeal site, and find that none of these is of such import as to override the conclusion on the major issue which has led to my decision.

14. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for use of redundant farm building as a workshop for repairing cars at Widmore Farm, Gaddesden Road, Hemel Hempstead, Herts in accordance with the terms of the application (No 4/1588/87) dated 9 October 1987 and the plans therewith, subject to the following conditions:

1. the development hereby permitted shall be begun not later than 2 years from the date of this letter;
2. the use hereby permitted shall be carried on only by Mr K J Catling;
3. the use hereby permitted shall be discontinued and the building restored to its former use on or before 2 years from the date of this letter;
4. the repair and respraying of motor vehicles shall not take place anywhere on the site except within the building that is the subject of this appeal;
5. with respect to the operation of the vehicle repair workshop, no more than 2 motor vehicles shall be kept on the site at any one time;
6. with respect to the operation of the vehicle repair workshop, no motor vehicle shall be stored overnight outside the workshop;
7. with respect to the operation of the vehicle repair workshop, neither broken down motor vehicles, nor parts thereof, nor spare parts of motor vehicles nor any other goods or equipment required for the purposes of the repair of motor vehicles may be stored outside the workshop;

8. no vehicles shall be repaired before 7.30 am on weekdays, and 8.30 am on Saturdays, nor after 7.00 pm on weekdays and Saturdays, nor at any time on Sundays and Bank Holidays;

9. within 3 months of the date of this letter, the sound-insulating material shall be applied to the building in accordance with a scheme to be agreed with the local planning authority;

15. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

16. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

I am Sir  
Your obedient Servant

Geoffrey S. S. Lane

GEOFFREY S S LANE DiplArch DiplTP RIBA MRTPI  
Inspector

**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) WIDMORE FARM, BRADDEN LANE, GADDESSEN ROW,  
HEMEL HEMPSTEAD, HERTS.

**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 25th May 19 88 <sup>(g)</sup>

Issued 20th April 19 88 .

Council's address —

Civic Centre

Marlowes

Hemel Hempstead

Herts. HP1 4UP

(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)*

Widmore Farm, Bradden Lane,  
Gaddesden Row, Hemel Hempstead, Herts.

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)*

Change of use from agricultural use to a mixed use for agriculture and use for car repairs.

### SCHEDULE 3

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

(i)

Cease the mixed use for agriculture and use for car repairs.

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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.

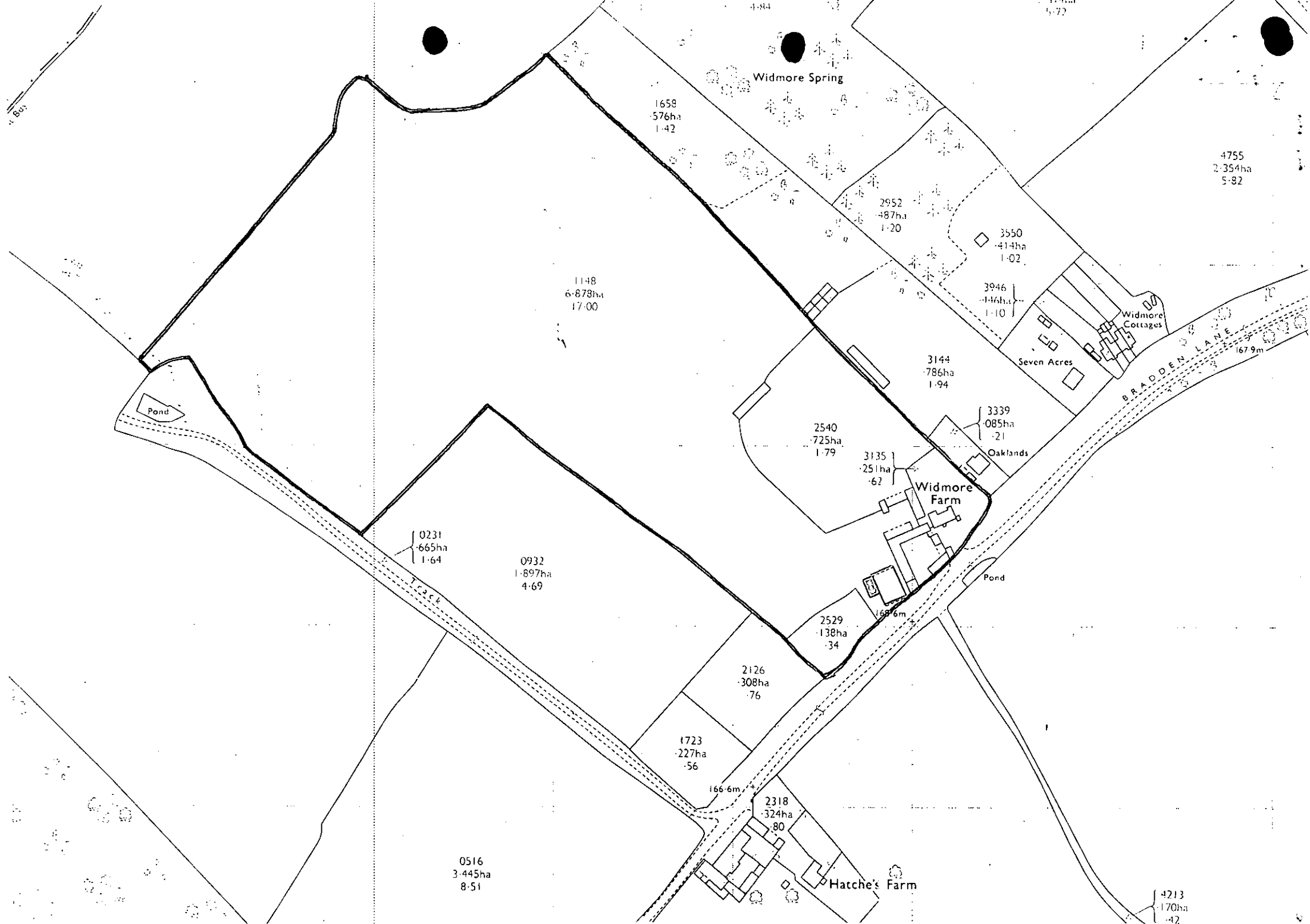
ANNEX TO ENFORCEMENT NOTICE DATED:-

20th April 1988

This information is given in pursuance of the Town and Country Planning (Enforcement Notice 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):-

- (1) The site is within a rural area beyond the 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) The establishment of a car repair business in this location, which is part of the Chilterns Area of Outstanding Natural Beauty, would be likely to have serious and adverse effects on the amenity of the area as a result of disturbance and visual intrusion, and could also lead to increased traffic which would be a hazard on the narrow roads leading to the site.



## 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 £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 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.

1.79

3135  
251ha  
.62

Oaklands

Widmore  
Farm

Storage of  
Wooden  
Pallets.

Transport truck / heavy truck  
1 car.

Two Couches  
Cars (3)

20

WORK  
SHOP

Vehicle  
Storage.

15 FT

16 FT

Vehicle  
Storage.  
3 cars  
1 van.

Pond

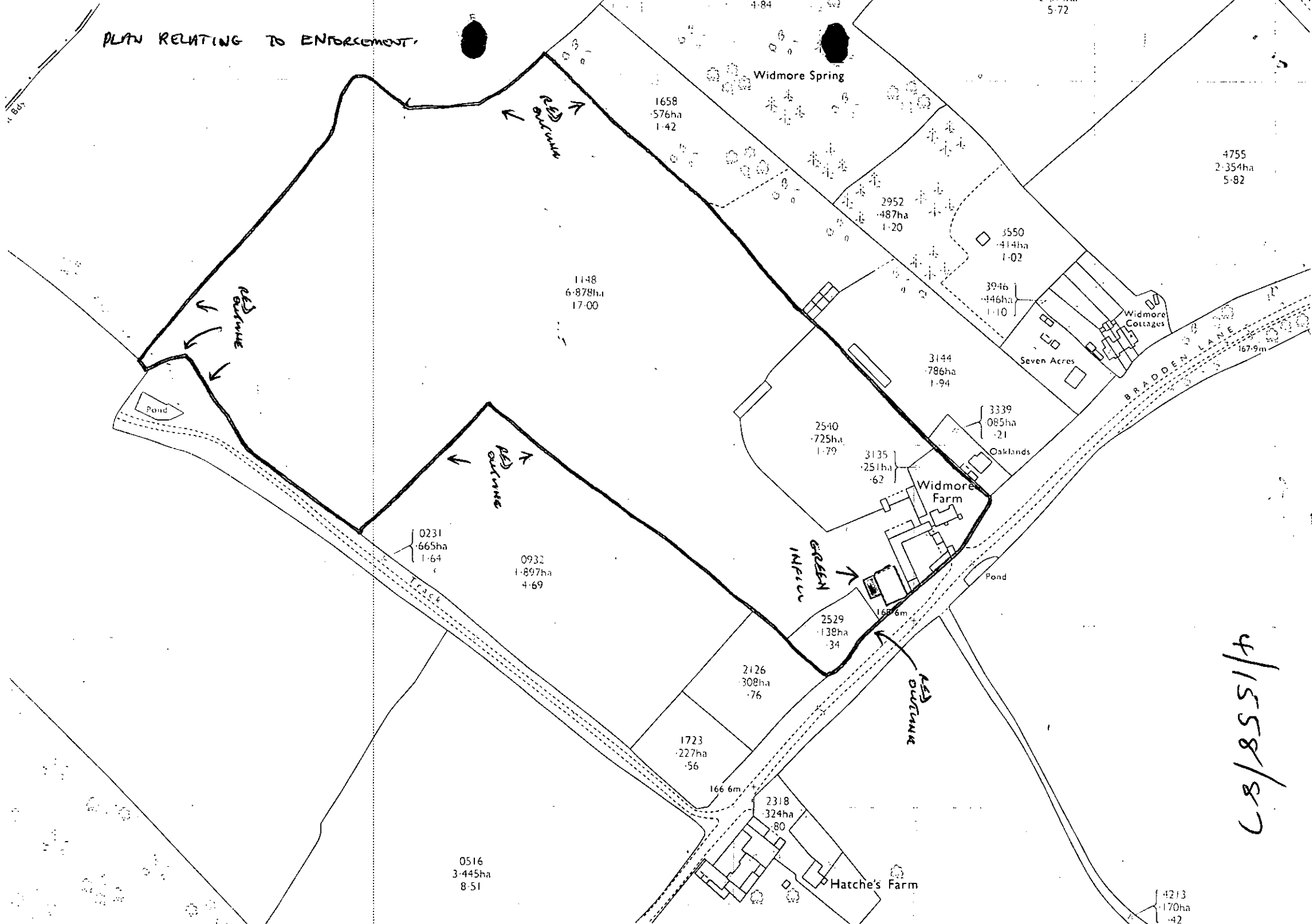
2529

168.6m

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TRIDENT ASSOCIATES, Houghton Regis, DUNSTABLE.

PLAN RELATING TO ENFORCEMENT.



4/1558/87

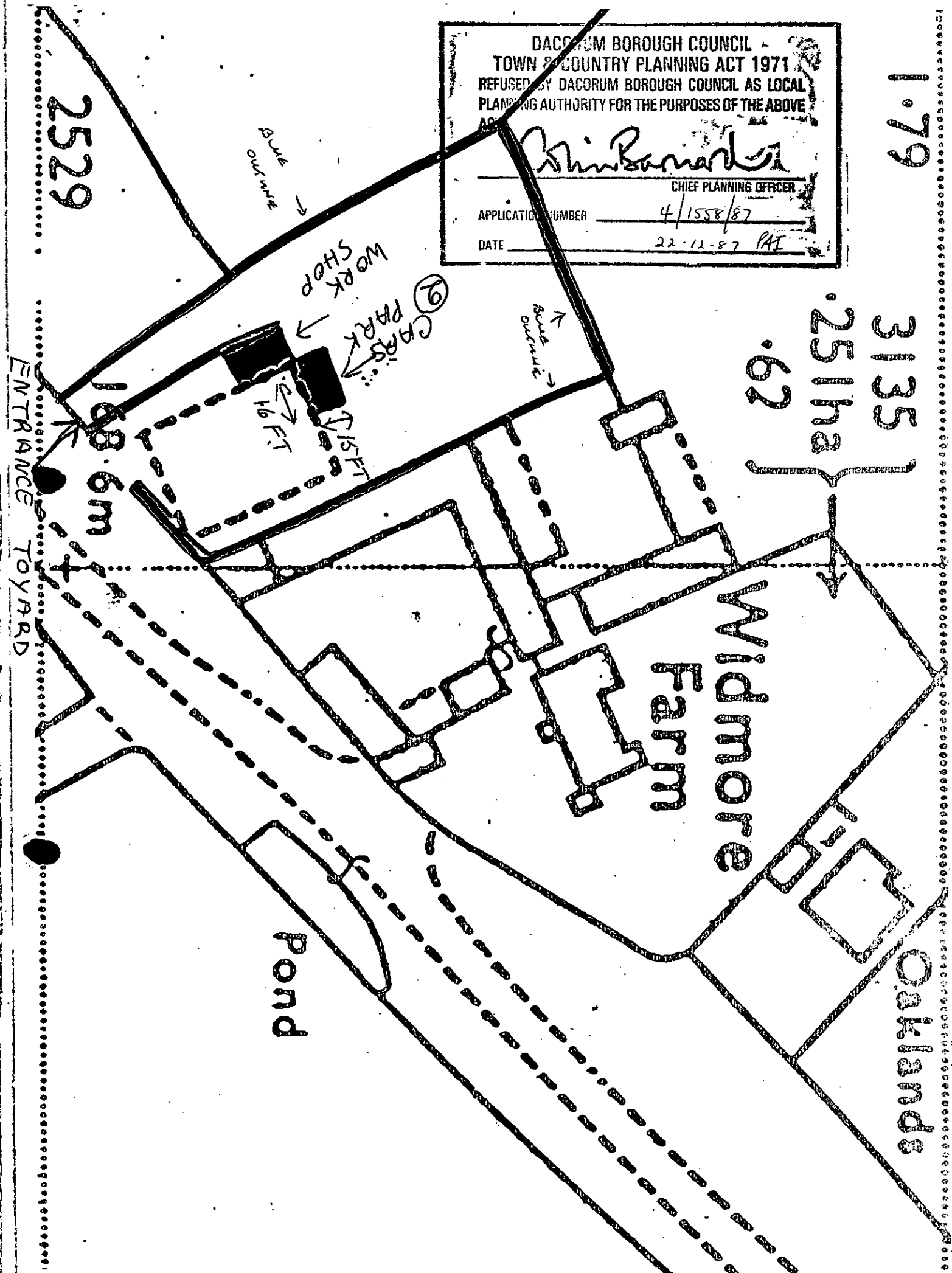
4/1558/87

- 9 OCT-1987

DACORUM BOROUGH COUNCIL  
TOWN & COUNTRY PLANNING ACT 1971  
REFUSED BY DACORUM BOROUGH COUNCIL AS LOCAL  
PLANNING AUTHORITY FOR THE PURPOSES OF THE ABOVE  
AP

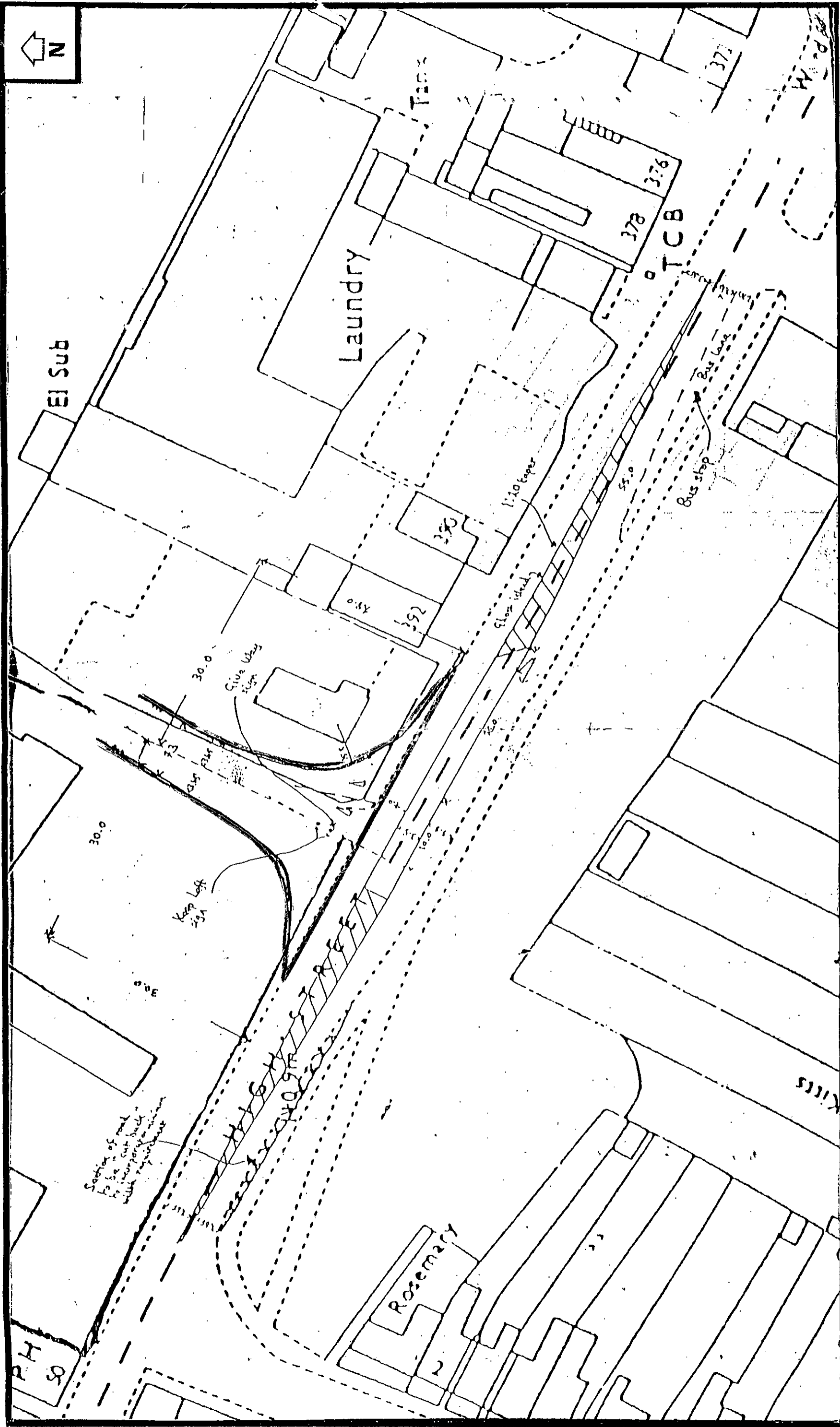
*Win Barnard*  
CHIEF PLANNING OFFICER

APPLICATION NUMBER 4/1558/87  
DATE 22.12.87 PAI



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MG/DD/2

SCALE: Not to scale

Junction of High Street and Stag Lane, Berkhamsted  
Proposed road improvements