IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT, 1971

ENFORCEMENT NOTICE

To: [redacted]

Of:

WHEREAS:-

1. You are the owner and occupier of land at Combe Farm, Ford Street, Wellington in the Borough of Taunton Deane in the County of Somerset which is more particularly delineated on the attached plan and thereon edged red ("the Land")

2. The TAUNTON DEANE BOROUGH COUNCIL ("the Council") are the District Planning Authority and exercise the functions of the Local Planning Authority for the purposes of the provisions of Section 87 of the Town and Country Planning Act ("the Act")

3. It appears to the Council that after the 31st day of December, 1963 there has been a breach of planning control in that the Land has been developed by the making of a material change in the use thereof to a use for the purposes of a site for a caravan without the grant of planning permission required in that behalf under Part III of the Act

4. The Council consider it expedient having regard to the provisions of the Structure Plan and to all other material considerations to issue this enforcement notice in exercise of their powers contained in Section 87 of the Act for the reasons set out in the Annex to this notice

NOW THEREFORE TAKE NOTICE that in exercise of the powers contained in Section 87 of the Act the Council HEREBY REQUIRE YOU within a period of three calendar months beginning with the date on which this notice takes effect to:-

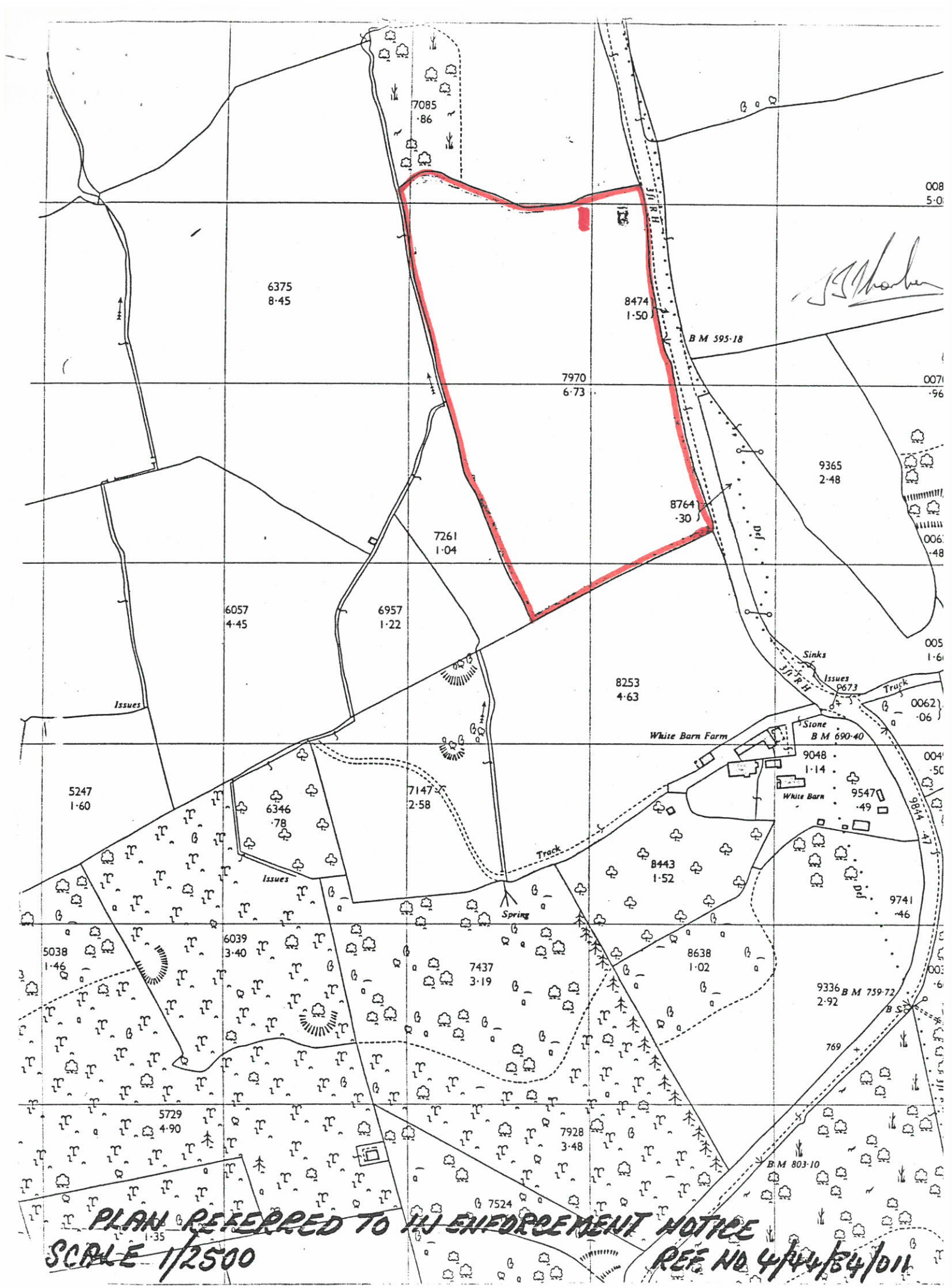
(1) Discontinue the use of the Land for the purposes of a site for a caravan; and

(2) Take the following step to restore the Land to its condition before the breach of planning control took place; namely:-

Remove the caravan from the Land

See attached decision letter

Quashed



PLAN REFERRED TO IN ENFORCEMENT NOTICE

SCALE 1/2500

REF NO 4/44/64/011

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act

ON THE TWENTY SECOND DAY OF MARCH 1986

DATED this TENTH DAY OF FEBRUARY 1986

Signed.....
Secretary and Solicitor

Municipal Buildings,
Taunton, Somerset.
Ref: GW/NP/PD11/A/220

YOUR ATTENTION IS DRAWN TO THE RIGHTS OF APPEAL AGAINST AN ENFORCEMENT NOTICE contained in Section 88 of the Act which are set out in the explanatory booklet "Enforcement Notice Appeals - A Guide to Procedure" enclosed herewith

THE ANNEX hereinbefore referred to

Reasons why the Council consider it expedient to issue an Enforcement Notice in respect of the unauthorised use of land at Combe Farm, Ford Street, Wellington, Somerset for the purpose of a site for a caravan

(1) The Land is situated in the open countryside within which it is the Council's policy to resist new residential development unless it can be demonstrated that such development serves a genuine agricultural or other appropriate need. In the opinion of the Council the unauthorised use of the Land does not serve such a need and therefore is contrary to the Council's policy

(2) The Land is situated within the Blackdown Hills Special Landscape Area where it is the Council's policy to carefully control all development that might damage the features which give the Area its special character. The unauthorised use of the Land constitues a visual intrusion which is detrimental to the amenities of the Special Landscape Area and therefore is contrary to the Council's policy

Dated this TENTH day of FEBRUARY 1986.

Signed.....
Secretary and Solicitor

Ref: GW/PD11/A/220

A/1209X/KP/P

Department of the Environment and Department of Transport

Common Services

Room 1410 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218936

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GTN 2074

Council Ref: 4/44/85/008

Robin Bryer Esq BA MRTPI
Princes Place
Closworth
Nr YEOVIL
Somerset
BA22 9RH

Your reference
1X
Our reference
T/APP/D3315/C/86/1097/P6
Date
-9 SEP 86

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEAL BY [redacted]
LAND AT COMBE FARM, FORD STREET

1. I have been appointed by the Secretary of State for the Environment to determine your client's appeal against an enforcement notice issued by Taunton Deane Borough Council concerning the above-mentioned land. I held an inquiry into the appeal on 20 August 1986.

2. The notice is dated 10 February 1986. The breach of planning control alleged in the notice is the making of a material change in the use of the land to a use for the purposes of a site for a caravan without the grant of planning permission. The requirements of the notice are: discontinue the use of the land for the purposes of a site for a caravan; and remove the caravan from the land. The period for compliance with the notice is 3 months. The appeal was made on the grounds set out in Section 88(2)(a) of the amended 1971 Act.

3. The appeal site lies west of the minor road leading southwards from the village of Ford Street. Much of the site slopes downwards quite steeply towards the west, where there is a watercourse. The immediate surroundings are rural in character. Nearby fields are mainly grassed, though a little to the south is the well-wooded escarpment of the Blackdown Hills.

4. A driveway leads from a gated entrance in the eastern boundary of the site towards the north, where at the time of my inspection the caravan mentioned in the enforcement notice was standing on a levelled area surfaced with concrete. The caravan was painted in a matt mid-brown. Nearby I saw an old van apparently used for storing animal feed. Just to the south was a group of buildings comprising two pens, a dry sow house and a farrowing house. The pens were of recent block construction with insulated walls and floor. The other structures were older and somewhat dilapidated in parts, the sow house being essentially an ark roofed with corrugated metal sheeting. Further south trench footings had been dug on a levelled area. Most of the remainder of the site was covered with rough grass.

5. The essence of the case for [redacted] was that the caravan was needed to enable the appellant to look after his pig rearing enterprise. Close supervision of the animals was necessary, particularly during farrowing times. It was accepted that the holding was not viable at present, but it would be within about 2 years.

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[redacted] was building up the business steadily and had put considerable effort into tidying and developing the site. You drew attention to the secluded nature of the site and to the appellant's willingness to accept conditions restricting or time-limiting occupation and requiring additional landscaping or screening. In your submission the development met a genuine agricultural need justifying the grant of planning permission, especially bearing in mind the presumption in its favour emphasised in recent Circulars.

6. The council considered that the development enforced against conflicted with the policies of the Somerset Structure Plan, under which new housing development in rural areas would not be permitted unless genuine agricultural or other need could be demonstrated. The site lay within a designated Special Landscape Area, the appearance of which would be harmed if planning permission were granted. In the council's view the agricultural need for the caravan was not sufficient to warrant making an exception to normal policies.

7. I consider that there are two main matters of dispute in this case: first, the impact of the development enforced against on the rural character of the area, having regard to relevant planning policy; secondly, the degree of need for the dwelling on agricultural grounds.

8. On the first issue, my own inspection of the area confirmed that the caravan could not be seen from public viewpoints and I judge that even at times when vegetation in the area is not in full leaf the caravan would still be secluded. I do not therefore accept the council's claim that the caravan is visually intrusive. That is not a major point in the appellant's favour, however, since residential development even if invisible is likely to generate traffic (including delivery and service vehicles) and general activity which would take away a little of the area's rural character. The impact of one small dwelling would not be very great, but it is necessary to take account of the possible cumulative effect of such development. Moreover, there are apparently other reasons, such as economy in the provision of public services, for concentrating residential development in Somerset into certain settlements. As you know I am required by the Planning Act to have regard to the structure plan which has been approved by the Secretary of State after all due processes including public consultation. In summary, I consider that the caravan has a small but potentially significant effect detrimental to the rural quality of the area and conflicting with statutory policy. Permission could therefore only be granted if those objections are outweighed by the agricultural need for the dwelling.

9. In order to satisfy the agricultural need criterion, on-site residential supervision of the holding must be necessary and the enterprise must either provide a livelihood for a competent farmer or at least show a reasonably firm prospect of such viability. [redacted] apparently works about 4 days a week as a building sub-contractor, so his full-time presence cannot be said to be essential to the present operation of the farm holding. However, bearing in mind the possibility of rapid changes in the animals' health, the need for regular feeding and watering and for manual adjustment to ventilation I can accept that if stock levels were greatly to increase residential supervision would be necessary. It is clear from the available evidence, including the Ministry of Agriculture's appraisal, that the business does not provide an income anywhere near a living wage. [redacted] stated that his turnover from the pig-rearing business should amount to some £12,000 this year but he was unable to quote a net profit figure. He was also unable to estimate future cash flows or profit. This makes it very difficult for me to judge future prospects. The claim in the grounds of appeal that the enterprise was "rapidly expanding" has also not been borne out in practice: building work has been undertaken but the amount of stock at Combe Farm is no higher than when the MAFF surveyor made his inspection in December 1985 (on the date of the inquiry stock numbers were actually slightly less than the 12 sows and 48 piglets there last December).

FORMAL DECISION

16. For the above reasons, and in exercise of the powers transferred to me, I hereby uphold your client's appeal, direct that the enforcement notice be quashed and grant planning permission on the application deemed to have been made under section 88B(3) of the amended 1971 Act for continued use of land at Combe Farm, Ford Street for the purposes of a site for a caravan in residential occupation, subject to the following conditions:

1. The use hereby permitted shall enure for the benefit of [redacted] only and not for the benefit of the land.

2. The use hereby permitted shall cease on or before the date 2 years from the date of this letter.

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

RIGHT OF APPEAL AGAINST DECISION

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

I am Sir
Your obedient Servant

G F SELF MA MSc FRTPI
Inspector

ENC

In all those circumstances I am bound to take a rather sceptical view of expressions of intent.

10. On the other hand there seems to me to be a good deal of sense in Mr Glover's approach under which he is using his own labour to build up the farming enterprise relatively slowly without incurring large debts. The fact that he has some previous experience of pig rearing and is endeavouring to provide properly constructed insulated buildings rather than makeshift accommodation are points in his favour. I am also mindful of the emphasis placed by the Secretary of State in recent Circulars on the need to encourage small businesses.

11. I can well understand the council's decision to refuse planning permission on the information available to them. The case in support of the appeal leaves much room for doubt. But having considered the evidence and seen the site I think there is a reasonable prospect of the holding becoming viable and I am not convinced that the grant of the permission sought would, in the words of Circular 14/85, cause demonstrable harm to interests of acknowledged importance. I believe that this is a case where the appellant should have the benefit of the doubt, by means of a temporary permission giving him the chance to expand the farm enterprise while enabling the situation to be reviewed should unforeseen circumstances result in his intentions not being carried out.

12. The possibility of a consent limited to one year was discussed during the inquiry. Although your client was prepared to have such a limitation, I think it could create problems for both sides since the farm business would probably not provide a full-time livelihood by Autumn 1987. In my view a 2-year period would be more satisfactory: at the end of that time it should be possible to assess on a reasonably sound basis the likely future viability of the holding and the need for the caravan.

13. It would not be appropriate for me to impose the standard agricultural occupancy condition (under which the occupation of the dwelling would be limited essentially to a person solely or mainly employed locally in agriculture) because for the present Mr Glover would be in breach of such a restriction. Instead I am making the permission personal to the appellant since if he were to dispose of the property the justification for the caravan could fall away. As regards landscaping or screening, I do not believe that a condition to require the erection of fencing or other such screen around the caravan would be justified at this stage, having regard to both the temporary nature of the consent being granted and the secluded nature of the site.

14. You will recall that at the start of the inquiry I commented on the fact that the enforcement notice did not specify the use to which it alleged the caravan was being put. Although the council have evidently employed similar wording successfully in other notices and you did not dispute the details of the notice, I consider that in describing the alleged breach of control, the notice should have referred to the residential use of the caravan. Such a reference is necessary because there are circumstances in which the use of land merely for "the purposes of a site for a caravan" would not amount to development requiring planning permission. The notice is not in my view fundamentally defective, however, and I am satisfied that had it been necessary I could have made the appropriate correction without injustice to either party. In the event, since the notice is being quashed no need for correction arises.

15. I have taken into account all the other matters raised in evidence on which I have not specifically commented, but they do not outweigh the considerations leading to my decision.

APPEARANCES

FOR THE APPELLANT

Mr R Bryer BA MRTPI - Planning consultant of Princes Place, Closworth, near Yeovil, Somerset.

He gave evidence and called:

[redacted] - The appellant.

[redacted] - Local resident.

FOR THE PLANNING AUTHORITY

Mr G Wyatt - Solicitor employed by Taunton Deane Borough Council.

He called:

Mr R Willoughby-Foster BA DipTP MRTPI - Area Planning Officer.

REPRESENTING THE MINISTRY OF AGRICULTURE, FISHERIES AND FOOD

Mr M G C Kent BSc ARICS - Senior Surveyor, MAFF, Quantock House, Paul Street, Taunton, Somerset, TA1 3NX.

DOCUMENTS

Document 1 - List of persons present at the inquiry.

Document 2 - Council's letter notifying local residents and others of the inquiry.

Document 3 - Copy of appeal decision letter relating to land at Toller Down referred to in evidence.

Document 4 - Planning history of land to the north of the appeal site (Appendix A of council's statement).

PLANS

Plan A - Map accompanying the enforcement notice.

Plan B - Council's site plan.

Plan C - Location plan.

Withdrawn 2/7/85

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ENFORCEMENT NOTICE

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Of:

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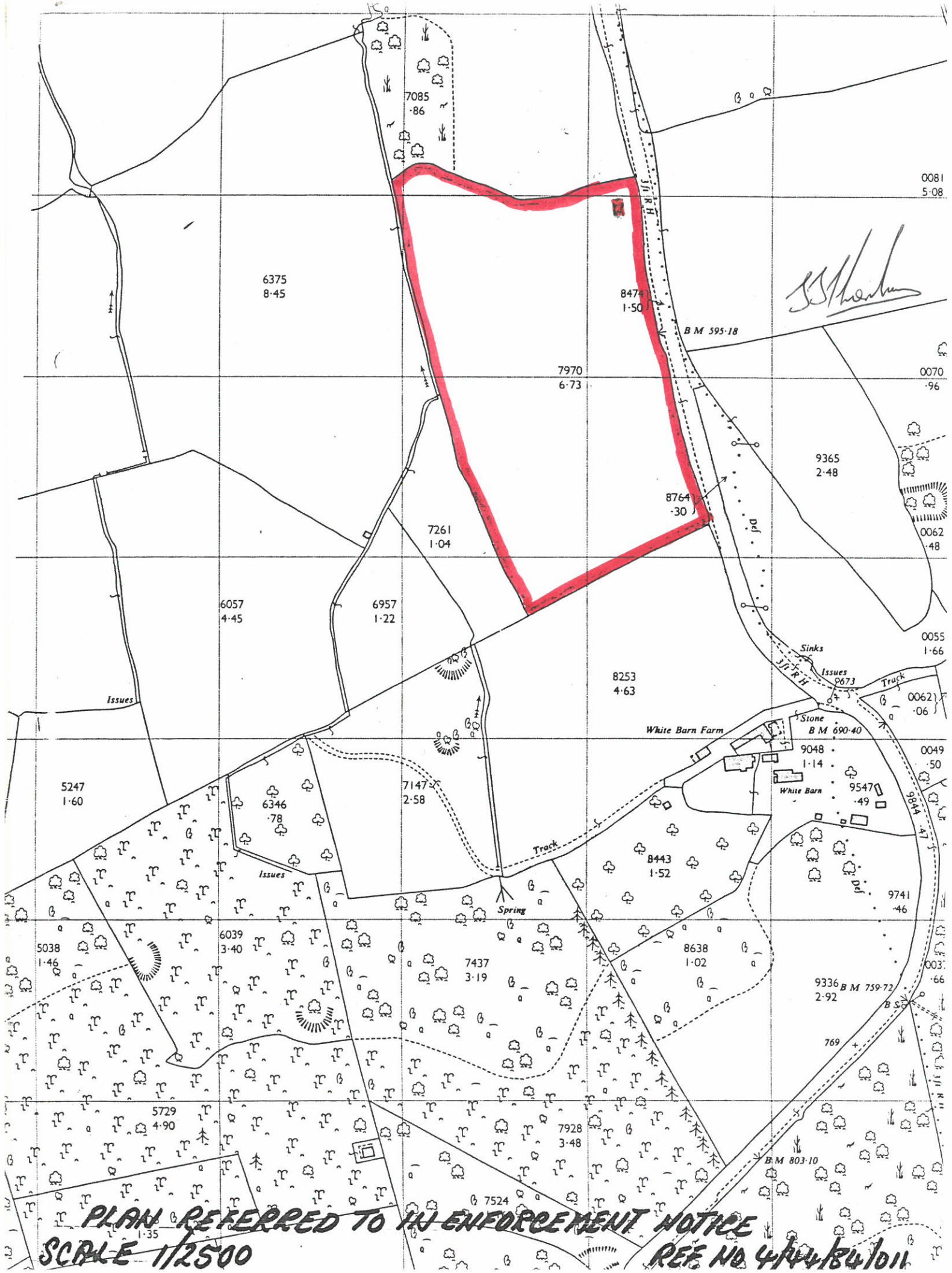
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Remove the caravan from the Land



PLAN REFERRED TO IN ENFORCEMENT NOTICE

SCALE 1/2500

REF NO 4/44/84/011

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act

ON THE TENTH DAY OF AUGUST 1985

DATED THIS FIRST DAY OF JULY 1985

Signed.....

Secretary and Solicitor

Municipal Buildings,
Taunton, Somerset.
Ref: GW/NP/PD11/A/220

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Dated this FIRST day of JULY 1985.

Signed.....

Secretary and Solicitor

Ref: GW/PD11/A/220