A/279/KP/P

PD 11/A/197

3 cc BPHO CEO 2/1/85.

Department of the Environment and Department of Transport
Common Services
Room 1408 Tollgate House Houlton Street Bristol BS2 9DJ
Telex 449321
Direct line 0272-218 936
Switchboard 0272-218811
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- 2 JAN 85
TAUNTON DEAN BC

Council Ref: MP/GI/PD.11/A/197

[redacted]

Your reference

Our reference
T/APP/D3315/C/84/772/P6

Date
28 DEC 84

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
LAND AT THE FARMERS ARMS, WEST HATCH

1. As you know I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice issued by the Taunton Deane Borough Council concerning the above-mentioned land. I have considered the written representations made by you and by the Council and also those made by the West Hatch Parish Council, by an interested organisation and by interested persons. I inspected the site on 30 October 1984.

2. a. The date of the notice is 3 February 1984.

b. The breach of planning control alleged in the notice is in 2 parts:-

Firstly, the making of a material change in the use of the land shown edged in red on the plan attached to the notice to a use for the purposes of a car park; and secondly the stripping of soil from the land and the laying of hardcore thereon, on the land shown edged in red on the plan attached to the notice without the grant of planning permission required in that behalf.

c. The requirements of the notice are:-

i. discontinue the use of the land for the purposes of a car park; and

ii. remove the hardcore from the land and reinstate the land to its condition before the laying of the hardcore took place, namely replace the soil and grade it to an even level.

d. The period for compliance with the notice is one calendar month in relation to the requirement identified at c(i) above and four calendar months in relation to the requirements identified at c(ii) above.

e. The appeal was made solely on ground 88(2)(a).

THE ALLEGED BREACH OF CONTROL

3. Your public house is situated towards the northern side of a small scatter of buildings occupying an elevated position in open countryside a short distance to

the south of Slough Green. The particular land referred to in the notice is a strip extending westwards from the vicinity of the public house building to the highway at Slough Hill where it is bounded by a high hedge. There is a similar hedge on the southern side along the common boundary with an apparently unused parcel of land lying between the appeal land and the access to the public house. To the north is a low earth mound and barbed wire fence with pastureland beyond.

4. On my site visit I noticed that the eastern boundary of the land defined in the plan attached to the notice includes the greater part of a block of lock-up garages, although these are not in fact shown on the plan. It would appear from the Council's representations that planning permission was granted in 1974 (under reference 90006/F) for the erection of 3 lock-up garages in this position and the inclusion of this land would appear to be a drafting error. In my opinion this defect in the notice can be overcome by deleting from the plan the area occupied by the garages, and I am satisfied that this lies within my powers of correction.

THE APPEAL ON GROUND (a)

5. I would agree that any more than a very limited incidence of car parking along the generally narrow lanes hereabouts would be likely to create inconvenience to other road users and might, potentially, represent a source of danger. Thus I accept that, in principle at least, it is prudent to seek to discourage such parking and I find that the provision of the car parking area upon the appeal land has had the effect of reducing a problem which had previously occurred in this vicinity. Nevertheless it does not follow, in my opinion, that extra car parking should necessarily be created to meet each and every additional demand that might arise from an expansion of trading activity. If that were so, car parking areas would grow and grow, restrained only by the limits of commercial enterprise.

6. You argue that the Council should have anticipated the likely car parking pressure. However, I see no reason to doubt that, on the basis of the information supplied, they were justified in assuming that the then level of parking provision would be generally appropriate to cater for the development authorised in 1983 under reference 4/47/83/001. Furthermore if, as you seem to suggest, it was expected at that time that a substantial increase in the demand for car parking would inevitably result from the operation of the extended premises, there was every opportunity for proposals for additional car parking to be made along with those for the extension and improvements to the premises.

7. Also, even if some additional car parking were thought to be justified it is not in my view, axiomatic that any land would be appropriate for this purpose. Consequently, whilst I do not dispute the general desirability of reducing potential traffic hazards I see no presumption in favour of providing car parking to whatever level of demand might occur. In any case, that is not the sole consideration, as I am also obliged to have regard to the Development Plan and to any other relevant planning matters.

8. From my inspection of the site and its surroundings, and from the representations made, it is my opinion that the principal issues in this case are, firstly, whether or not the laying out and use of this land as a car park represents an inappropriate extension of commercial development into the adjoining countryside, secondly, whether or not it detracts from the special landscape quality of the surroundings, and thirdly, whether or not the development in question unduly affects the amenities of nearby residents.

9. Irrespective of the question of ownership or the occasional casual use to which you refer, it is my opinion that prior to the formation of the car park the

enforcement land was as a matter of fact and degree largely beyond the area directly associated with the commercial operation of the public house. Except that as the eastern boundary of the appeal land directly adjoins the car parking area adjacent to the public house itself it would be unreasonable, in my opinion, to assume that there might not be some small overlap of commercial influence at the boundary. Nevertheless it is my opinion that as a whole the appeal land was an integral part of the generally open countryside that surrounds the development in this vicinity. It may be that it has seen no active agricultural use for some years, but I see no reason to find that, before the formation of the car park, this land was other than a typical element in the pattern of rural uses.

10. Having regard to the character of the nearby uses it seems to me that car parking on this salient of land which extends away from, and has no affinity with, the other areas associated with the public house use, represents an entirely different and alien use. I appreciate that you intend to limit its use to that of an overflow car park, but that does not overcome my objection and, in any case, it is not, in my view, feasible or realistic to assume that such control could be exercised on a permanent basis. Moreover, the hardcore laid over this area introduces a hard element in the landscape. Notwithstanding that because of the hedges and the curvature of the ground the appeal land is screened from much of the surrounding area, that does not, in my opinion, justify allowing a form of development which I believe would significantly diminish the rural character of the area and which I note is included in the Structure Plan within a Special Landscape Area. In the circumstances I consider that there is an unacceptable conflict with the provisions of the approved County of Somerset Structure Plan, which is not outweighed by the benefit of encouraging parking to take place clear of the highway.

11. By and large it seems to me that the level of traffic generation is more a question of the attractiveness of the public house than the area of available car parking. Having regard to the existing screening and the juxtaposition with the dwellings in this vicinity I do not consider that use of this car park would, in itself, create any significant increase in noise or disturbance. Thus, in relation to those matters alleged in the notice, I do not consider that any undue harm should be caused to the amenities of the occupiers of nearby dwellings, although some additional planting along the south-western part of the boundary might be justified.

12. I have taken into account all the other matters raised in the written representations including the development permitted at the Nags Head public house; the letter from the Chief Fire Officer for the Somerset Fire Brigade; the letter from the Avon and Somerset Constabulary; and also the submitted petition. However, they do not alter my view that the layout and use of this land as a car park is, as a whole, inappropriate in this location. Nevertheless, the objection does not, in my opinion, apply with the same force to the very eastern end where the enforcement land connects with the adjacent existing car park. This is relatively close to the public house itself and, bearing in mind the relationship to the general layout of the parking area along the north-western flank of the building, it seems to me that the addition of a small part of the enforcement land might not be inappropriate. However there is no convenient physical division, and this is not a matter that I consider can properly be adjudged in isolation, but one which should be seen in relation to plans for the overall consolidation of the parking provision at the Farmers Arms. In the circumstances I am not disposed to grant planning permission for even part of the development although to provide ample opportunity for the matter to be explored with the Council I have decided to extend the period for compliance relating to the physical works, from 4 months to 6 months, even though no appeal was made against the period specified on ground (h).

FORMAL DECISION

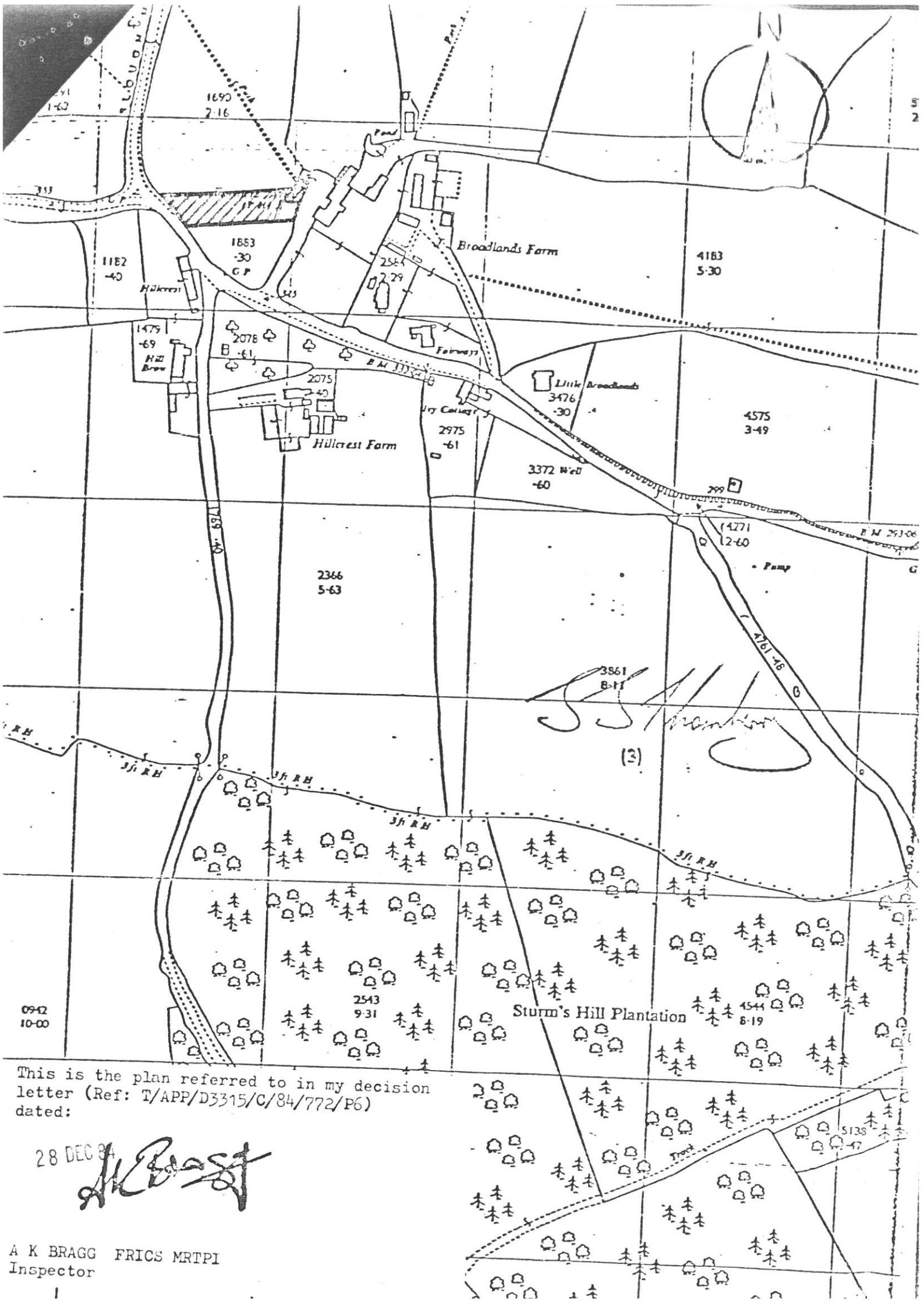
13. For the reasons given above, and in exercise of the powers transferred to me, I hereby direct that the plan attached to this letter with the site hatched black be substituted for that attached to the enforcement notice. I also direct that the notice be varied by the deletion of the words "four calendar months" from sub-paragraph (b) of paragraph 6 of the notice and the substitution therefor of the words "six calendar months". Subject to this correction and this variation I uphold the enforcement notice, dismiss your appeal and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the 1971 Act, as amended.

RIGHT OF APPEAL AGAINST DECISION

14. 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

A K BRAGG FRICS MRTPI
Inspector



This is the plan referred to in my decision letter (Ref: T/APP/D3315/C/84/772/P6) dated:

28 DEC 84

A K BRAGG FRICS MRTPI
Inspector

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT, 1971

ENFORCEMENT NOTICE

To: [redacted]

of:

Amended by Inspector's Decision letter dated 28th December 1984 attached hereto.

WHEREAS:

1. You are the owner and occupier of land situate at "The Farmers Arms", West Hatch 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 purpose of the provisions of Section 87 of the Town and Country Planning Act 1971 ("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 car park without the grant of permission required in that behalf under Part III of the Act

4. It further appears to the Council that within the period of four years before the date of this notice there has been a breach of planning control in that the Land has been developed by the carrying out thereof of engineering operations, namely the stripping of soil from the Land and the laying of hardcore thereon without the grant of permission required in that behalf under Part III of the Act

5. 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

6. NOW THEREFORE TAKE NOTICE that in exercise of their powers contained in Section 87 of the Act the Council HEREBY REQUIRE YOU:-

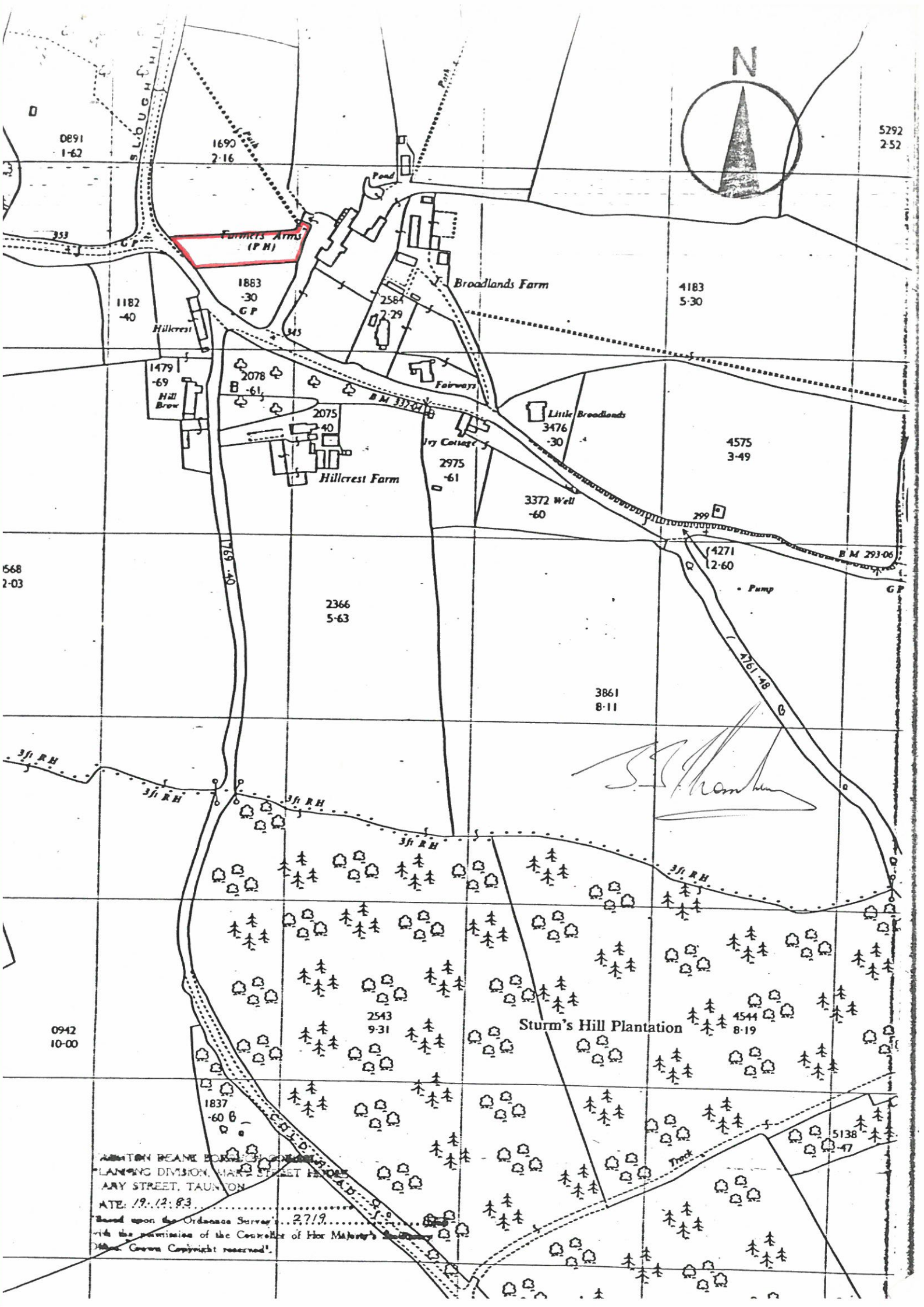
(a) within a period of one calendar month beginning with the date on which this notice takes effect to:-

Discontinue the use of the Land for the purposes of a car park; and

(b) within a period of four calendar months beginning with the date on which this notices takes effect to:-

(i) remove the hardcore from the Land; and

(ii) reinstate the Land to its condition before the laying of the hardcore took place, namely replace the soil and grade it to an even level



ASHTON BEANE BOROUGH COUNCIL
PLANNING DIVISION, MARKET STREET HOUSE
MARY STREET, TAUNTON
DATE: 19.12.83
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THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 88(10) of the Act

ON THE FOURTEENTH DAY OF MARCH 1984

DATED THIS THIRD DAY OF FEBRUARY 1984

Signed .....

Secretary and Solicitor

Municipal Buildings,
Taunton, Somerset.

Ref: GW/PD.11/A/197

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 stripping of soil from the laying of hardcore on and the use as a Car Park of Land at "The Farmers Arms", West Hatch, Taunton, Somerset.

1. The use of agricultural land for the formation of a consolidated car parking area is detrimental to the visual amenities of an area of Special Landscape Value

2. The unauthorised use of the Land extends the commercial activity of the adjoining public house into the open countryside which is contrary to Council's policy of normally resisting such development

3. The unauthorised use of the Land is detrimental to the amenities of the occupiers of nearby residential properties

Dated this third day of February, 1984

Signed .....
Secretary and Solicitor

Ref: GW/PD.11/A/197