

Memorandum

To COUNTY PLANNING OFFICER
fao Mr P Unthank ✓

From COUNTY SECRETARY'S DEPARTMENT

Copies to COUNTY ENVIRONMENTAL
SERVICES OFFICER
fao Miss L Gallimore

Please ask for Mrs J Burley
Ext 217
My Ref JHB/PAW PL/CZ.22 PL/BF.25
Your Ref
Date 21 October 1982

COUNTY PLANNING HERTFORD	
21 October 1982 22 OCT 1982	
Refer	
Att.	SB PTU
File	

CHURCH LANE LANDFILL SITE WORMLEY

At our recent meeting, I promised to let you have a note on the relationship between the Enforcement Notice which requires this site to be filled by 5 March 1983 and the waste disposal licence issued under the Control of Pollution Act 1974.

Enforcement Notice

If the necessary works to ensure compliance with the Enforcement Notice are not completed by 5 March next year, Mr Edwards will clearly be in breach of the Enforcement Notice and liable on summary conviction to a fine of up to £1,000 and in addition a fine of up to £100 per day thereafter. The County Council is also entitled to go onto the land and carry out whatever remains to be done under the Enforcement Notice and recover the costs from the owner. Mr Edwards cannot evade his liability by selling the land to a third party.

It is open to the local planning authority to extend the time specified in the Enforcement Notice for compliance before the specified time has expired.* It has been held that an extension after that time is "an act of grace without legal consequences (Joyner v Gilford Corporation (1954))", in other words it amounts to the local planning authority agreeing not to commence proceedings for breach of the Enforcement Notice for a further period of X days or weeks to enable the works to be completed.

Licence under the Control of Pollution Act

Section 5(2) of the Control of Pollution Act 1974 provides that a disposal licence shall not be issued for a use of land ... for which planning permission is required ... unless such permission is in force. However, it appears not to be the case that where planning permission expires, the disposal licence automatically lapses. I am therefore satisfied that if the site is not restored to the satisfaction of the County Planning Officer by 5 March next year then we have sufficient powers against Mr Edwards and he will not have the defence that he cannot complete the infill of the site because he is in a "catch 22 situation" with the licence having lapsed and no new licence being possible because there is no longer planning

* Section 101 of local Govt Act 1972 CPO delegated power to extend period re list 2 01.04.83 Hounslow Borough

Contd...

permission for continued infilling. Furthermore, I think that if it is necessary in the end to prosecute Mr Edwards, it may be positively to our advantage that the DOE is taking so long to consider the appeal in that Mr Edwards will not be able to say in his defence that he would have completed the restoration had the County Council not revoked the tipping licence.

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COUNTY SECRETARY