



52 03/227 A



Appeal Decision

Site visit made on 04 May 2005

by Roger Priestley BA(Hons) DipTP MRTPI FRGS

an Inspector appointed by the First Secretary of State

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Date

25 MAY 2005

Appeals Ref: APP/J3910/C/04/1165223 and 1165225

Bray Farm, Purton Stoke, Swindon

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr G Hazel against 2 enforcement notices issued by North Wiltshire District Council.
- The Council's references are 03/00222/ENF (A) and (B).
- The notices were issued on 7 September 2004

NOTICE A (ref. 1165223)

- The breach of planning control as alleged in the notice is the erection of a building shown coloured red on the plan attached to the notice.
- The requirements of the notice are
 - (a) demolish the building shown diagrammatically coloured red on the plan to ground level; and
 - (b) remove all the materials and debris resulting from the demolition from the land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. An appeal on ground (d) has been withdrawn.

NOTICE B (ref. 1165225)

- The breach of planning control as alleged in the notice is the material change of use of the land from agriculture to a mixed use for agriculture and the keeping of horses for commercial purposes.
- The requirement of the notice is to cease the use of the site for the keeping of horses for commercial purposes.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. An appeal on ground (d) has been withdrawn.

Summary of Decisions: The appeals are dismissed and the enforcement notices are upheld with variations.

Background

1. The appeal site is situated in countryside about 1 mile to the west of the village of Purton Stoke. Access is gained via a track off the private road, Stoke Common Lane that leads west out of the village.
2. The appellant purchased the appeals sites and adjoining fields (Bray Farm) around 4 years ago. The land had formerly comprised part of the adjacent farm (Lower Farm) which had been subject to a repossession order. At that time there were two stable blocks, mainly of

timber construction and each consisting of 5 stable units, in the appeal field. Planning permission had not been granted for these buildings but they would appear to have been immune from enforcement. One of the blocks was demolished and reconstructed using concrete blocks. It is this building which is the subject of notice A.

3. The remaining timber building appears in poor condition and at the time of my visit one of the five units in that building was in use as a stable. Three units were in use for general storage purposes and the unit at the south end of the block, containing an oven, microwave, fridge and so on, appeared to be in use as a kitchen.
4. Both buildings are situated close to the north west corner of the field the subject of notice B. The field is sub-divided by post-wire fencing, and within the individual paddocks were horses, sheep and chickens. I observed 9 horses in this field, including 4 Shetlands.
5. The appellant currently rents the site to a local horse owner and trainer, and I read that the prime objective of both the appellant and the rentee is to develop an equestrian activity based on T.R.E.C (Technique de Randonee Equestre de Competition), a new competitive discipline and recreational activity designed to test the horse/rider combination through a whole range of activities. The sport is open to all ages of rider and all breeds of horse.

The appeals on ground (a)

Planning Policies

6. Wiltshire Structure Plan Policy DP1 sets out priorities for sustainable development and includes, at criteria 6, the indication that priority should be given to minimising the loss of countryside and protecting and enhancing the area's environmental assets. Policy DP9 states that in the open countryside the appropriate reuse of previously developed land and buildings should be encouraged.
7. The adopted North Wiltshire Local Plan [2001] includes Policies RLF13 and RC9. Policy RC9 deals with general policies for the countryside and RLF13 deals expressly with equestrian facilities. The latter indicates that in the countryside such facilities will be permitted provided certain specified criteria are met. Amongst other things, proposals must not materially detract from the rural character of the countryside, and, for other than small scale development with minimal impact on the landscape, are required to be located close to, and in association with, existing buildings and facilities. Criterion 3 requires that proposals, for other than small scale development with minimal impact on the landscape, utilise, or are based upon, existing stables, agricultural or other buildings, including dwellings where nearby accommodation is considered desirable. Criterion 6 requires access to be acceptable. The Plan does not define small scale development.
8. The Review Local Plan is in the course of preparation but I assign this limited weight commensurate with its emerging status. I note that the First Deposit stage Policy CF4 (equestrian facilities) has now been deleted and the principles incorporated into BD7 on farm diversification. There is no specific reference to numbers of stables/horses for equestrian use. NE15 seeks to protect the landscape character of the area.
9. I have also borne in mind related national policy guidance, in particular PPS 7 – Sustainable Development in Rural Areas. This encourages the promotion of leisure and recreation in, and the enjoyment of, the countryside, and at the same time seeks to ensure that the quality

and character of the countryside is protected and, where possible, enhanced. PPG13 deals with accessibility and other highway matters.

Main issues

10. I consider the main issues these appeals to be the effect of the development on the character and appearance of the area and the adequacy of the site access roads.

Reasons

The stables building

11. The stable building some 18.6 m long and around 4.3 m in width is situated just in front of, and parallel with, the remaining timber building. The blockwork is painted white. It is set in open countryside and is conspicuous from public vantage points. In particular, there is a public footpath on the line of the timber building and a plan produced by a local resident shows that there is also a further footpath on an east / west alignment along the northern boundary of the appeal field, inside of the hedgerow.
12. Whilst conscious that there are a number of private stables situated just off Stoke Common Lane, and fully appreciating that there was a previous structure on this site, I consider that this building in its open setting intrudes significantly into the countryside. Although its visual impact could be lessened by repainting, shading of the lighting and by landscaping, harm to the rural character of the locality would still be caused. This development, despite being associated with a recreational activity, is to my mind in clear conflict with the objective to ensure the protection of the quality and character of the wider countryside. It is against DP1 and in the terms of Policy RLF13, setting aside the argument as to whether or not the building amounts to small scale development, it plainly has more than minimal impact on the landscape.

The use for commercial purposes

13. I realise that a riding school is not intended. Even so, a commercial equestrian use, in all probability involving a range of related paraphernalia is, as in the case of the stable building, likely to have more than a minimal impact on the local landscape. Criterion (3) of RLF13 seems to me to be particularly relevant and given the likely impact on the landscape, and whilst recognising that PPS7 identifies enterprises involving up to 10 horses as small scale, I can well understand in the absence of a dwelling the Council's concern that there would be pressure for supervisory accommodation. This is so, despite the fact that the land can be overlooked from the neighbouring dwelling at Lower Farm.
14. It is important, moreover, to consider the nature of the access to the appeal land. The site is approached from Purton Stoke along a single width private road, around 1 mile in length, which is also bridleway. There are just occasional, informal, passing places and at one point forward visibility is severely limited by a bend in the road. This is not a 'main road' as is suggested for the appellant. A rough, unmade, track then leads off this road at its western end towards both Lower Farm and the appeal land. Even on the basis of a restriction on the number of horses on the lines canvassed by the parties, and having due regard to the advice in PPG13 paragraph 43 to which the appellant refers, the shortcomings I have described are such as to lead me to conclude that this is not an acceptable access as required by RLF13(6).

Summary on planning merits

15. When considering that this site formed part of the area purchased off Lower Farm around 4 years ago I am unable to assign any substantive weight to the case advanced here on farm diversification. Nor can the stables development be properly regarded as a re-use. There is in both cases conflict with the development plan, and the harm that is caused cannot be properly overcome by the imposition of planning conditions. The ground (a) appeals fail and I shall not grant permission to the deemed applications.

The appeals on ground (f)

The stables building

16. I appreciate that there was a building on this site prior to the erection of the present stables. However, no plans of the former structure have been produced and I do not consider it appropriate, through ground (f), to specify as a lesser requirement its reinstatement. Such a requirement would lack the necessary precision. Having considered the question of repainting and landscaping under ground (a) above, it is my firm view that the requirements as specified in the notice are the minimum necessary to remedy the breach of planning control. This ground (f) appeal must fail.

The use for commercial purposes

17. Whilst the appellant suggests a limitation to 5 stables/horses the matter at issue is the keeping of horses for commercial use and in my view the requirement to cease the commercial use is again the minimum necessary to remedy the breach. This appeal therefore also fails.

The appeals on ground (g)

18. The rentee will need to seek alternative accommodation and in all the circumstances I believe that 6 month compliance periods should reasonably be allowed in each of these appeals. To this extent both appeals on ground (g) succeed.

Conclusion

19. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should not succeed. I shall uphold the enforcement notices with variations and refuse to grant planning permission on the deemed applications.

Formal Decisions

20. I direct that the enforcement notices be varied by the substitution of 6 for 3 months in the time for compliance. Subject to these variations I dismiss the appeals, uphold the enforcement notices, and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

R. W. Hestley.

Inspector

Our Ref: 03/00222/EMIN

Your Ref:

Enquiries to: Robin Williams

Date: 7 September 2004

Strategic Manager: Alun Davies

Planning Services
Monkton Park
Chippenham
Wiltshire
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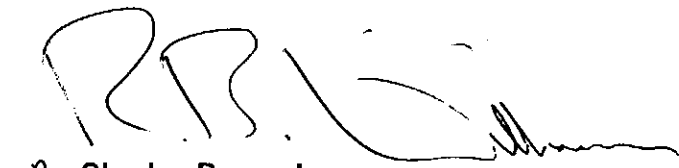
Dear Sir/Madam

**ENFORCEMENT NOTICES ON LAND TO THE SOUTH EAST OF LOWER
FARM, PURTON STOKE, SWINDON, WILTSHIRE**

The Council has issued Enforcement Notices relating to the above Land and copies of these Notices are now served on you, in view of your interest in the Land.

Unless appeals are made, as set out in the Annex, the Notices will take effect on the date shown in Paragraph 7 of the Notices and you must ensure that the required steps for which you may be held responsible are taken within the period or periods specified.

Yours faithfully


P.P. **Charles Pescod**
Implementation Team Leader
Development Control and Listed Buildings

Mr G Hazel
14 The Brow
Haydon Wick
Swindon
Wiltshire
SN25 1HT

Ms Fiona McMahon
3A New Cottages
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84 - 86 Cricklade Road
Gorse Hill
Swindon
Wiltshire SN2 6AE



INVESTOR IN PEOPLE

Our Ref: 03/00222/EMIN

Your Ref:

Enquiries to: Robin Williams

Date: 7 September 2004

Strategic Manager: Alun Davies

Planning Services

Monkton Park
Chippenham
Wiltshire
SN15 1ER

Tel: 01249 706640

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Dear Sir/Madam

**ENFORCEMENT NOTICES ON LAND TO THE SOUTH EAST OF LOWER
FARM, PURTON STOKE, SWINDON, WILTSHIRE**

Should you wish to appeal against the enforcement notices on ground (a) as provided by Section 174 (2)(a) of the Town and Country Planning Act 1990 (as amended) the following fees will be required:-

Notice (A) £220 for both The Planning Inspectorate and the Local Planning Authority

Notice (B) £440 for both The Planning Inspectorate and the Local Planning Authority

The cheque for the Planning Inspectorate should be made payable to the First Secretary of State and for the Local Planning Authority the cheque should be made payable to North Wiltshire District Council. Only one person needs to pay a fee.

These fees must be included with your appeal forms, which you have to send to the Council at the above address and the Planning Inspectorate at the address on the appeal form.

Yours faithfully



Charles Pescod
Implementation Team Leader
Development Control and Listed Buildings

Mr G Hazel
14 The Brow
Haydon Wick
Swindon
Wiltshire
SN25 1HT

Ms Fiona McMahon
3A New Cottages
Foxhill
Swindon
Wiltshire

Lloyds Bank
84 - 86 Cricklade Road
Gorse Hill
Swindon
Wiltshire SN2 6AE



INVESTOR IN PEOPLE

03/00222/ENF (A)

**IMPORTANT - THIS COMMUNICATION
AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY: North Wiltshire District Council

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land to the south east of Lower Farm, Purton Stoke, Swindon, Wiltshire shown hatched on the attached plan.

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission, the erection of a building shown coloured red on the attached plan.

4. **REASONS FOR ISSUING THIS NOTICE**

- a) It appears to the Council that the above breach of planning control has occurred within the last four years.
- b) The building is situated in the countryside and is not near to a dwelling which could provide supervision and security for animals and equipment kept at the site. The addition of the building results in a development on the site that is other than small-scale development and therefore the addition of the unauthorised building is not justified as equestrian development pursuant to Policy RLF 13 of the North Wiltshire Local Plan.
- c) The site is prominently situated in a flat, open landscape next to a public footpath. The addition of this building on the site erodes the character of

the countryside contrary to Government policy to protect the countryside from inappropriate development in accordance with Planning Policy Statement 7: Sustainable Development in Rural Areas and contrary to policy RC9 of the North Wiltshire Local Plan and policy DP1 of the Wiltshire Structure Plan.

5. WHAT YOU ARE REQUIRED TO DO

- a) Demolish the building shown diagrammatically coloured red on the attached plan to ground level.
- b) Remove all the materials and debris resulting from the demolition referred to in paragraph 5(a) of this Notice from the land.

6. TIME FOR COMPLIANCE

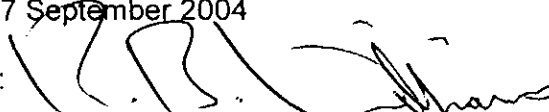
Three months from the date this Notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 19 October 2004 unless an appeal is made against it beforehand.

Dated : 7 September 2004

Signed :



on behalf of North Wiltshire District Council

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be **received**, by the Secretary of State **before** the date specified in paragraph 7 of the notice. The enclosed booklet "Enforcement Notice Appeals - A Guide to Procedure" sets out your rights. You may use the enclosed appeal forms.

- (a) One is for you to send to the Secretary of State if you decide to appeal, together with a copy of this enforcement notice.
- (b) The second copy of the appeal form should be sent to the Council.
- (c) The third copy is for your own records.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

03/00222/ENF (B)

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY: North Wiltshire District Council

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land to the south east of Lower Farm, Purton Stoke, Swindon, Wiltshire shown hatched on the attached plan.

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission, the material change of use of the land from agriculture to a mixed use for agriculture and the keeping of horses for commercial purposes.

4. **REASONS FOR ISSUING THIS NOTICE**

- a) It appears to the Council that the above breach of planning control has occurred within the last ten years.
- b) The land is situated in the countryside and is not near to a dwelling which could provide supervision and security for animals and equipment kept on the land. The commercial use of the land for horses is larger than small-scale equestrian development and therefore is contrary to Policy RLF13 of the North Wiltshire Local Plan.
- c) The site is accessed via a long, narrow public highway cul-de-sac and a trackway that runs along the line of a public footpath. The use of the site

for commercial purposes is likely to generate traffic movements which would be detrimental to the safety of other highway users contrary to policy RLF 13 of the North Wiltshire Local Plan.

- d) The site is prominently situated in an isolated location on a flat, open landscape next to a public footpath where the commercial use of the site is likely to lead to most visits being made by motor vehicles contrary to Government aims of providing a sustainable environment minimising the use of motor vehicles. Additionally, the parking of horseboxes, trailers and other vehicles associated with the commercial use on this site would have a detrimental effect upon the character of the countryside in this area.

5. WHAT YOU ARE REQUIRED TO DO

Cease the use of the site for the keeping of horses for commercial purposes.

6. TIME FOR COMPLIANCE

Three months from the date this Notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 19 October 2004 unless an appeal is made against it beforehand.

Dated : 7 September 2004

Signed :

on behalf of North Wiltshire District Council

ANNEX

YOUR RIGHT OF APPEAL

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