

# ENFORCEMENT REGISTER INFORMATION SHEET

E/195

APPEAL

☒ yes

no

Plan's Ref

## ADDRESS

Foxhill House,  
Allington,  
Blippenham

## BREACH of CONTROL

Issuing Authority N.W.D.C.

Date Issued 11-11-82

## STOP NOTICES

Date Served

Requiring



195

Date(s) served

Takes effect 1-1-83

Compliance by 1-2-83

Dates Extended by  
Secretary of State

Date withdrawn

## REQUIREMENTS of ENFORCEMENT

### Steps required to be taken

1. To submit to the Council for approval within one month on a 1:500 block plan detailed proposals for
  - i. Planting with mixed thorn and field maple to form hedging and screening
  - ii. Seeding with natural grasses.
2. After approval of the landscaping proposals referred to in paragraph 1 above by the Council, to secure their implementation within one month of the commencement of the first available planting season thereafter.
3. To secure the replacement in accordance with the approved plan of any of the trees and shrubs which die within a period of five years from planting in the first available planting season after the tree or shrubs demise and thereafter maintain the same for a further period of five years.

Alleged breach of planning control

2A. The condition which has not been complied with.

"Within one year of the permission a landscaping scheme which shall incorporate adequate seeding of natural grasses shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in the first available planting season following approval of such details and shall be maintained thereafter for a period of not less than 5 years to the satisfaction of the Local Planning Authority. Any tree or shrub which dies within that period shall be replaced to the satisfaction of the Local Planning Authority and maintained for a further period five years.

2B. Alleged Breach of Condition.

The condition set out above has not been complied with in that a landscaping scheme has not been submitted within the requisite period.



# Department of the Environment and Department of Transport

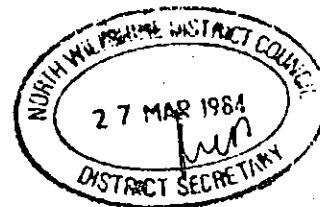
Common Services

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Council Ref: AD/DA/512 and 567

Messrs Chapman Warren  
8 High Street  
Wootton Bassett  
SWINDON  
Wiltshire  
SN4 7AA

Your reference

GEW/KAR/J002

Our reference

T/APP/5408/C/83/108/PE2

T/APP/J3910/A/83/4537/PE2

Date

26 MAR 1984

29 MAR 1984

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9  
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981

APPEALS BY MR B JONES

LAND AND BUILDINGS AT BRAYDONCROFT, QUEEN STREET, BRAYDON

1. As you know, I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. The appeals are against an enforcement notice issued by the North Wiltshire District Council and against a refusal of planning permission by that Council, concerning the above-mentioned land and buildings. I have considered the written representations made by you and by the Council and also those made by interested persons and I inspected the site on 29 December 1983.

2. a. The date of the notice is 23 November 1982.

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

a. the making of a material change in the use of the land by the use for the purposes of the parking and turning of vehicles in connection with the adjoining haulage depot of land other than that authorised for such use by planning permission No N/78/1190/F;

b. i. the tipping of hardcore and other material, hereinafter called the tipped material, over an area and to a level in excess of that authorised by planning permission N/78/1190/F which permitted the construction of a vehicle turning area having a 68 ft diameter;

ii. the erection of a building on the land for the purpose of providing storage facilities in connection with the business of a haulage depot.

c. The requirements of the notice are:

i. to remove or secure the removal of the tipped material deposited on the site in excess of that authorised by the approved plans relative to planning permission No N/78/1190/F;

ii. to expose or secure the exposure of the topsoil forming the original field surface now covered by the tipped material and seed with natural grasses;

iii. to remove or secure the removal of the said building erected on the land without the benefit of planning permission together with any debris arising from such removal;

iv. to confine or secure the confinement of the parking and turning of lorries, to the area authorised for such use by planning permission No N/78/1190/F.

d. The period for compliance with the notice is 6 months.

e. The appeal was made initially on grounds 88(2)(a) and (g). Ground (c) was added later during the exchange of representations, in respect of item B(ii).

3. The development for which planning permission was refused is the use of land as haulage depot, use of part of barn for vehicle maintenance and infill of land for the parking and turning of lorries.

#### THE SITE AND SURROUNDINGS

4. The combined appeals site is 'L' shaped and at its southern end fronts a minor road in the open countryside about 4 miles north-west of Wootton Bassett. From the road where your client's dwelling is situated the land slopes down to the north and has been built up by infilling, so that the northern boundary of the site along its other arm extending eastwards is about 6 m above the level of the adjoining fields. From the frontage a vehicular access leads past the dwelling and its curtilage and an area of hardcore on which some private cars were parked, to a point just before the other part of the site extends eastwards, where the site narrows to a width of about 11 m. This eastern arm includes along the northern boundary the most recent area of infilling. At its western end is an area used for vehicles turning, roughly 37 m by 33 m, on the east side of which were parked 5 articulated tractors and trailers. Separated from these vehicles by a barbed wire fence, in an area at the south-east corner of the eastern arm, stands a barn in which were 3 calves in a pen, bales of hay and straw, and a work bench and tools for the maintenance of lorries. Three more calves were running loose in the area adjoining the barn. West of the site is open farm land from which it is partly screened by hedges, and small trees have been planted at the foot of the filled area along the northern boundary. To the east and south the site adjoins a vehicle scrap yard, at rear of a garage fronting the minor road next to the appeal site.

5. Under ground (c) your client considers that the alleged breach of control relating to the building has not taken place because the notice is incorrect in stating that the building has been erected since the original planning permission of 1979. It was erected in 1978 for agricultural purposes to enable your client's wife to carry on a calf rearing business which has continued to the present day, and does not need planning permission because of the provision of Class VI Schedule 1 of the General Development Order. It has also been used on a small scale for storing spare parts of lorries and carrying out occasional maintenance, when the weather is bad. This storage incidental to the agricultural use of the barn occupies only a small proportion of the building's area.

6. The council's view on this ground of appeal is that no evidence is available to show that the building when erected was (in the terms of the Development Order) requisite for agriculture or that it was "erected on agricultural land having an area of more than one acre and comprised in an agricultural unit". In addition the building has always been used to a significant extent for vehicle maintenance as well as agriculture, and it therefore requires planning permission which has not been obtained. The appeal on this ground should therefore fail.

7. I agree with the council that in the absence of the information they have mentioned, which would enable me to determine whether the building can be classed as "permitted development", and because the onus is on your client to satisfy me in this respect, I am unable to conclude that the erection of the building was

1980 does not overrule significant planning objections, and I observe that the original grant of permission before the circular issued, made because of your client's personal circumstances, may have led to the present problems.

12. There is therefore a conflict between the application of established policies of the encouragement of rural employment and the preservation of the rural amenities, and the merits are well balanced. As a special consideration I have taken into account the difficulties of finding suitable sites for a haulage business, but regard this as more relevant to ground (h) than ground (a). The detrimental effect of the adjoining scrap yard is a further consideration but to my mind this does not justify adding to it by increased activity at the appeal site. Your client sees his proposals as necessary for rationalizing the operation of his business, but to me they indicate that it may now be right for the business to continue on other premises if it is to operate on its present basis without detriment to the surroundings. Therefore it seems to me that the special circumstances are not enough to cause your client's case to prevail in this appeal. For this reason both appeals relating to the use of the appeal site should fail. As regards the area of unauthorised tipping, since what has been authorised will still extend well above the level of the adjoining field even if the former area is excavated, it will be sufficient if it is landscaped and planted so that it cannot be used for haulage purposes, and I therefore propose to grant planning permission for retention of the tipped area subject to conditions, and this part of the notice will be varied. I have taken into account all the other matters raised in the representations, including those by interested persons, but they are not sufficient to affect my decision.

13. Under ground (g) your client considers removal of the unauthorised building to be excessive but this requirement is no more than is necessary to remedy the breach of planning control and should therefore be retained.

14. You did not appeal under ground (h) but I have considered whether the period for compliance is reasonable. Bearing in mind that if your client wishes to move his business as a result of the upholding of the notice he will need sufficient time to find alternative premises, I consider that a period of 1 year should be allowed for this purpose, and shall vary the notice accordingly.

#### FORMAL DECISION

15. For the above reasons, and in exercise of the powers transferred to me I hereby direct:

1. That the notice be corrected by the deletion of the words "for the purpose of providing storage facilities in connection with the business of a haulage depot" in the second paragraph of schedule 2B;

2. that the notice be varied by deletion of the whole of paragraph 1 of Schedule 2B, and by the deletion of the whole of paragraphs (i) and (ii) of Schedule 3.

3. that the notice be varied by deletion of the word and figure "6 months" in paragraph 4 and the substitution therefor of the words "one year".

16. Subject to the above I uphold the notice dismiss your client's appeal under Section 88 and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Act, but by virtue of Section 88B(1)(a) of the Act grant permission for the retention of the tipped material deposited on the land in excess of that authorised by the approved plans relating to planning permission No N/78/1190/F, subject to the following condition:

Within 12 months of the date of this letter trees or shrubs shall be planted on the area of unauthorised tipping, in such positions and of such species as may be agreed with the local planning authority. Any trees removed, dying, being severely damaged or becoming seriously diseased within 2 years of planting shall be replaced by trees of similar size and species to those originally required to be planted.

17. Subject to the above, I also dismiss the Section 36 appeal.

18. 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.

19. 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.

#### RIGHTS OF APPEAL

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

I am Gentlemen  
Your obedient Servant



A H T CLAYTON, MA(Oxon)  
Inspector