

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 203		
APPEAL	yes	no
Plan's Ref #82/0618/04		

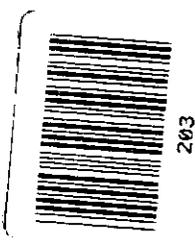
ADDRESS
 COURT FARM
 HULLAVINGTON

BREACH of CONTROL
material change of use from agriculture to a use connected with the parking and storage of motor vehicles for purposes unconnected with the agricultural use of the land.

Issuing Authority N. W. D. C.

Date Issued 24-2-82

STOP NOTICES
 Date Served
 Requiring



Date withdrawn

Date(s) served

Takes effect 1-4-82

Compliance by 1-10-82

Dates Extended by Secretary of State
Appeal dismissed 24.9.82

REQUIREMENTS of ENFORCEMENT:

- 1 Discontinue the use of the land for the parking and storage of motor vehicles for purposes wholly unconnected with the agricultural use of the land.*
- 2 To secure the removal of all motor vehicles unconnected with the ~~use~~ agricultural use of the said land brought on to the said land for the purposes of parking and storage.*

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

MATERIAL CHANGE OF USE

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

LAND AT COURT FARM, HULLAVINGTON

*Chief Planning
Officer
for the attention
of Mr. Waller*

PLANNING CONTROL	PROCESSED TO	DATE RECEIVED
	2/2	
NO		
25 FEB 1982		

WHEREAS:

- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises (hereinafter referred to as "the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the carrying out of development by the making of the material change in the use of the land described in Schedule 2 below, without the grant of planning permission required for that development.
- (3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said Section 87 for the reasons set out in the annex to this notice.

NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to remedy the breach within the period of six months from the date on which this notice takes effect

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88(10) of the Act, on 1st April, 1982.

Issued 24th February, 1982.

Signed: _____

[Signature]
Solicitor to the Council

North Wiltshire District Council,
Monkton Park,
Chippenham,
Wiltshire.
SN15 1ER

5. Inside the site were a number of parked vehicles, mostly old. In a barn, outside the site boundary but with openings onto the site, were 2 old cars and vehicle parts. The northern part of the site is rough grass with several piles of gravel or chippings. In a shed running the length of the northern boundary was a boat, an old sports car and an old vehicle chassis part.

6. The access to the site serves the central part of the farmyard of Court Farm in which there are numerous farm buildings and agricultural structures. Court Farmhouse - now divorced from the farm - and the village church lie to the south and Hill Hayes Lane which leads to open country to the west. Nos 20 to 24 The Street have a direct view from their back windows over the site. There is a low wall along part of the western boundary and the site appears to be a natural part of the farmyard.

CASE FOR THE APPELLANTS

7. The main points were: 4 witnesses who have long and intimate knowledge of the village have given sworn evidence that the appeal site has been used for the parking of vehicles since the early 1950s. Mr Greenman lived at Court Farm from 1942 until 1962 and although cattle were kept on the site there was some parking inside the access. Other witnesses remember in particular Nurse Kent's car, Mr McLung's van (on occasions) and sometimes Mr Wilson's lorry and car. The letters at Document 4, including the signed statement by Messrs Greenman, Welch and Reed are convincing proof of vehicle parking on the site.

8. You acquired the garage premises opposite the site in 1972 and the limitation of space for vehicle parking has been a continuing problem; at one time your vehicles were parked in The Street and Frog Lane. When Mr Butler bought Court Farm you made a verbal agreement with him to use the site for parking cars. You had noticed that Mr Wilson parked his car or lorry behind his house. Because of MOT requirements additional space is required for vehicles awaiting servicing or repair. No scrap vehicles are stored although on occasions vehicles recovered from accidents have been parked on the site. It is true that old vehicles have been parked but they are classic or collector's cars. It may be that some vehicles have been on the site over a year. Because the site has been used for vehicle parking since the 1950s the appeal on ground (e) should succeed.

9. The use is visually unobtrusive and does no harm. It is notable that out of 30 letters sent out by the Council, only 5 replies have been received. Of these, Mr Parry Williams and Nurse Kent have parked on the site. Mr Bonford White's letter is irrelevant. Storing vehicles on the site helps to reduce street parking. The garage requires this additional space because equipment for MOT tests has had to be accommodated. It is vehemently denied that the site is a scrapyard and if it is at all unsightly, this can easily be improved by screening.

10. You point out that you built a wall of traditional stone in Frog Lane, although not required to do so by the planning permission for the garage extension. The garage provides a valuable service to the village community and the 2 mini-buses you operate are beneficial to both the locality and the RAF Station at Hullavington. The garage is part of the village life, the Parish Council have no objections and temporary or conditional permission would be acceptable.

11. As regards the access, it is no different from others in the village; at least 20. Although you stated - at paragraph G - of the grounds of appeal that no accidents have been reported, you now accept the Highway Authority's evidence that "a car reversing out of Paxton's Garage was involved with a motor-cyclist on 4 January 1980, resulting in serious injuries". However you maintain that this

was unconnected with the use of the access. There is therefore no reason why planning permission should not be granted and the appeal on ground (a) should succeed.

CASE FOR THE PLANNING AUTHORITY

12. In 1979 the appellant applied for permission to change the use of the appeal site from agriculture to the storage of vehicles awaiting servicing and repair. An enforcement notice followed and subsequent appeals were dismissed, Ref APP/5408/C/80/334, 327, 329 and A/79/11547. Proceedings in the magistrates court were discontinued when it was claimed that the vehicles were not awaiting servicing and repair, but were scrap. Hence the present notice, phrased in wider terms.

13. On the evidence presented, a reasonable person would conclude that over the years 1960-1970 and possibly part of 1950, one or more vehicles may have been parked on the site. Such parking was an informal arrangement, mere neighbourliness. Until Mr Butler bought the farm in 1975, the yard was used as part of the farm. The few vehicles which may have been parked were in any case, in the barn close to the access and outside the area enforced against. Mr Butler agreed that Mr Paxton first mentioned parking on the site in 1980 and the present use commenced at that time. This is a concentrated use of the site for a business purpose, not a convenience to villagers as may have happened in the past. What is happening now and is not disputed by the appellant - is totally different in character. The authorised use of the land is agricultural and the use enforced against is in breach of planning control: the appeal on ground (e) has no substance and should fail.

14. The planning merits today are no different from those argued at the previous inquiry. The use was found unacceptable then and there is no case for granting permission now. Letters from local residents support the authority's view that the use has an adverse effect on the residential amenities of neighbours and the character of the village.

15. There are a number of buildings close to the site which are architecturally or historically interesting, some are listed. A use for the storage of vehicles would detract from the amenities of this most attractive part of the village around Court Farm and the church. Moreover, the use is linked to the garage across the road which has already expanded to the limits of its constricted site.

16. It is to be expected that there would be movement of vehicles to and fro and possibly work on the site. This is a traditional farmyard enclosed by natural stone walls and screening would not be appropriate. Conditions suggested by the appellant would be extremely difficult to monitor or enforce.

17. There are formidable highway objections as found at the previous inquiry. The location of the access directly opposite the appellant's garage would involve vehicles being driven straight across the Street, causing danger to other road traffic and pedestrians. Visibility from the access is very restricted, being some 25 ft in either direction. The walls on either side of the access are 5 ft 6 ins to 6 ft high and not in the appellant's ownership or control. Drivers emerging from the access would have to enter the carriageway in order to have a reasonable view. Therefore the Highway Authority fully supports the council in objecting to the proposal. The appeal on ground (a) should fail.

CASE FOR INTERESTED PERSONS

The main points were:-

18. Mr and Mrs D Wilson (Coal Merchants), have lived at 24 The Street since 1954 and a gate from the back garden leads on to the site: there is a large garage alongside the house. They have a depot at Watts Lane where the 8 lorries are kept; their motor car is kept in the garage. Between the years 1954 and 1976, one lorry may have been taken occasionally on to the site for delivery to the back of the house. Over this period a vehicle may have been repaired on the site but no more than 3 times. The only other time his lorries used the appeal site was to move 300 tons of sugar beet grown on the farm. There has been no continuous parking of his vehicles.

19. The previous owner of Court Farm, Mr Edwards kept cattle in the northern part of the site until 1974. Cars or vans referred to by the appellant's witnesses were parked in the barn outside the appeal site, or just inside the access, but this was on a very small scale. Until Mr Paxton came to an arrangement with the present owner Mr Butler, the appeal site was part of the farm. The access through the site is still used by farm vehicles and machinery.

20. The photographs submitted by Mrs Wilson show the unsightly appearance of the vehicles which are within 20 ft of the back windows of the house. One engineless van was moved across to the garage "this morning".

21. Mr Paxton's evidence is incorrect in stating that no accidents have taken place. A vehicle driven by Mr Paxton reversed into the access and on driving out was hit by a motor-cyclist.

22. Letters from local residents objecting to the use, stress the expansion of the garage business since 1978, the adverse effects of vehicles stored on the site and the fear that it is becoming a scrap yard. Two other garages are located within 3 miles and provide adequate facilities. Concern is also expressed that the whole matter was ventilated at the previous appeal and was refused. The former owner of the garage from December 1963 to August 1972 (Mr Newport) now residing at No 27 The Street, refutes the appellant's assertion that vehicles have been stored on the site over a period of 20 years.

CONCLUSIONS

23. As regards your appeal on ground (a), the onus is upon you to show that the use enforced against commenced before the end of 1963 and has so continued since the beginning of 1964. There is a conflict in the evidence on this point, your witnesses refer to the particular vehicles of Nurse Kent, Mr McLung and Mr Wilson. Also Mr Greenman who lived at Court Farm parked his vehicle at times until 1962. I have also considered the statement (Document 4(3)) signed by 3 of your witnesses, which states that the site "has been used continually for parking and repairing vehicles prior to and after 1963". The statement also states that no accident has occurred at the access.

24. I find this evidence lacking in precise details and particulars in respect of dates and length of time. Whilst I accept that the witnesses have spoken to the best of their recollection, this evidence is not sufficient to show that the parking and storage of vehicles was carried on to any substantial degree. I do not find it comparable to the present use of the site. In any event, such parking as did

occur was on a small scale and the evidence shows that use was made of the barn which is outside the site.

25. On the balance of probability, I find that the use described by your witnesses was de minimis in planning terms. As you have failed to discharge the burden of proof that the breach of planning control occurred before the end of 1963 and has continued since that time, I consider that a material change of use took place when you commenced the parking and storage of vehicles in connection with your garage. Your appeal on ground (e) fails.

26. On planning merit, I find the principal issue to be the impact of the proposal on the immediate locality. It seems to me that the site has all the characteristics of a farmyard in an attractive and natural setting. I particularly note the close proximity of Court House, the church and the listed buildings. In these circumstances, the storage of motor vehicles, many of which are old, is an unacceptable use. Moreover, the back windows of 3 houses in The Street overlook the site and their visual amenity would be significantly affected; also the movement of vehicles to and from the site is likely to further reduce their amenity. I am in no doubt that the character of the area would be substantially harmed.

27. Another material planning objection arises from the nature of the access. It is sub-standard and in my opinion, potentially dangerous. A driver emerging from the site would in most cases have his front wheels on the carriageway before obtaining adequate visibility in either direction. The use would doubtless involve vehicles being taken to or from the garage across the street. I am also mindful that some - at least - of the vehicles would be on tow or on a trailer. The access is unsuitable to serve the proposed use because it is a hazard to highway safety. I recognise that the garage has expanded and that you seek additional space; however the appeal site is not appropriately located to serve your purpose. Your appeal on ground (a) fails.

28. In the light of guidance contained in the Department's Circular 22/80, I have considered whether in spite of the unsuitability of the site, conditional or limited permission might be granted. I find however that the planning objections are clear cut and specific. Nor would the circumstances be alleviated by conditions.

29. I am satisfied that the requirements of the notice are reasonable and necessary. Also that 6 months is an adequate period for compliance.

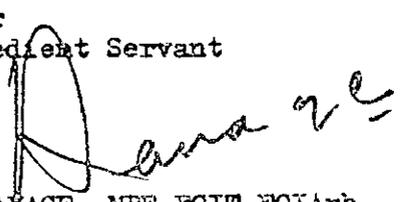
30. I have considered all the other matters raised but find that they are not of sufficient weight to override those considerations which led to my decision. I propose therefore to dismiss your appeal and uphold the enforcement notice.

FORMAL DECISION

31. For the above reasons and in exercise of the powers transferred to me, I hereby dismiss your appeal, uphold the notice and refuse to grant planning permission on the application deemed to have been made under Section 86B(3) of the Act (as amended).

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

I am Sir
Your obedient Servant


T A K SAVAGE MBE FCIT FCI Arb
Inspector