

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 211 B

APPEAL

yes

no

Plan's Ref

ADDRESS

FORMER VILLAGE SCHOOL
THE STREET
GRIFFITHTON

BREACH of CONTROL

THE MAKING OF A MATERIAL CHANGE IN THE USE OF THE LAND FROM THE PERMITTED USE OF A STORE LOCK UP STORE TO A CONTINUING USE FOR THAT PURPOSE AND, IN ADDITION, THE OPERATION OF A NEWSPAPER DISTRIBUTION BUSINESS INVOLVING THE DELIVERY DURING US SOCIAL HOURS OF NEWSPAPERS AND JOURNAL MATERIAL, THEIR SORTING AND THEIR DELIVERY AND THE USE OF A NUMBER OF VANS AND OTHER DELIVERY VEHICLES

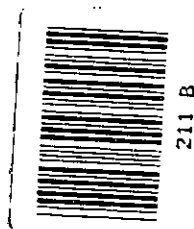
Issuing Authority NWDC

Date Issued 29.11.89

STOP NOTICES

Date Served

Requiring



Date(s) served

29.11.89

Takes effect 3.1.90

Compliance by 3.4.90

Dates Extended by
Secretary of State

Date withdrawn

REQUIREMENTS of ENFORCEMENT

TO CURE THE USE OF THE LAND FOR THE
OPERATION OF A NEWSPAPER DISTRIBUTION BUSINESS

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

IMPORTANT -

THIS COMMUNICATION AFFECTS YOUR PROPERTY

District Secretary's Department,
G. C. Betteridge, LL.B., (Solicitor),
District Secretary



Ray

North Wiltshire District Council

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 443322
Ext. 594

Our ref **E** 211B

Enquiries to Mr McDonald

Your ref

29th November 1989

Dear Sir/Madam,

NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1971 (as amended) ENFORCEMENT NOTICE

Former Village School, The Street, Grittleton, Chippenham, Wiltshire

The Council have issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your interest in the land. Unless an appeal is made to the Secretary of State as described below, the Notice will take effect on the date shown in the box below and you must then ensure that the required steps for which you may be held responsible are taken within the period or periods specified in the Notice.

If you wish to appeal against the Notice, you should first read carefully the enclosed booklet entitled "Enforcement Notice Appeals - A Guide to Procedure". Then, you or your agent should complete the enclosed appeal form and send it, together with the extra copy of the Enforcement Notice enclosed herewith to the address on the appeal form. Your appeal MUST BE RECEIVED by the Department of the Environment BEFORE THE NOTICE TAKES EFFECT.

There is a requirement on the Council to specify the reasons why the local planning authority consider it expedient to issue the Notice and these reasons are set out in the ANNEX overleaf.

Yours faithfully,


District Secretary

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED 3rd January 1990

To: John V. Pickford
"Woodlands"
The
Street
Grittleton
Chippenham SN14 6 AP

Patricia Pickford
"Woodlands"
The Street
Grittleton
Chippenham SN14 6AP

E211B

Annex (This does not form part of the Enforcement Notice)

Reason for issue:

The use is detrimental to the amenities of the nearby residential property and to the character and amenity of the village.

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

Former Village School, The Street, Grittleton, Chippenham, Wilts.

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 ("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 THREE 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 3rd January 1990

ISSUED 29th November 1989

Signed

C. C. Batteridge

Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this notice relates

Land at The Street, Grittleton, Chippenham, Wiltshire formerly Village School shown stippled on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The making of a material change in the use of the land from the permitted use of retail lock-up store to a continuing use for that purpose and, in addition, the operation of a newspaper distribution business involving the delivery during unsocial hours of newspapers and similar material, their sorting and their despatch and the use of a number of vans and other delivery vehicles.

SCHEDULE 3 - Steps required to be taken

To cease the use of the land for the operation of a newspaper distribution business.

E 211 (b)

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

the land
referred to:

Scale 1:2500

GRITTLETON CP

Grittleton

Grittleton House
(School)

Manor Farm

ST

802

801

1000

799

858

859

861

862

863

WILTSHIRE COUNCIL

Prepared from the Ordnance Survey
map with the permission of the Controller
of H.M. Stationery Office.



Planning Inspectorate
Department of the Environment

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ
 Telex 449321

Direct Line 0272-218 936
 Switchboard 0272-218811
 GTN 1374

Council ref: McD/KPAD/1317

£211

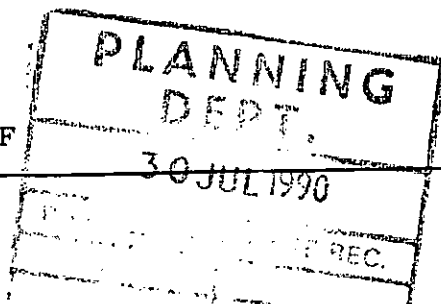
Jeary & Lewis
 Solicitors
 Oliver's Lane
 High Street
 MALMESBURY
 Wiltshire SN16 9AF

Your reference

DFL
 Our reference

T/APP/C/90/J3910/000001/P6
 Date

25 JUL 90



Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
 LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
 APPEAL BY JOHN V PICKFORD
 LAND AND BUILDINGS AT FORMER VILLAGE SCHOOL, THE STREET, GRITTLETON,
 CHIPPENHAM, WILTSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against an enforcement notice issued by the North Wiltshire District 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 other interested parties including Grittleton Parish Council, and I inspected the site on 11 June 1990.
2. a. The date of the notice is 29 November 1989.
- b. The breach of planning control alleged in the notice is the making of a material change in the use of the land from the permitted use of retail lock-up store to a continuing use for that purpose and, in addition, the operation of a newspaper distribution business involving the delivery during unsocial hours of newspapers and similar material, their sorting and their dispatch and the use of a number of vans and other delivery vehicles.
- c. The requirements of the notice are to cease the use of the land for the operation of a newspaper distribution business.
- d. The period for compliance with the notice is 3 months.
- e. The appeal was made on the grounds set out in Section 88(2)(a),(b),(c),(g) and (h) of the 1971 Act as amended.

Corrections to Notice

3. The allegation in the notice at Schedule 2 refers to a continuing use (for the purpose of the retail lock-up store) and, in addition, the operation of a newspaper distribution business. In effect, this refers to a mixed use and in the interests of clarity I propose to correct the notice to make this plain. This correction is within my power to make and would not in my view cause injustice to either party.

Planning History

4. I am told that planning permission was granted in 1976 for the change of use of the former school to use as a retail lock-up store and that in January 1988 an enforcement notice was issued relating to use of the site for the stationing, cleaning and maintenance of mini-buses.

The Appeal Site

5. The appeal site comprises the former village school with land to the front. It is set on the north side of The Street in the attractive village of Grittleton and is within the Grittleton Conservation Area. The properties in the immediate vicinity of the appeal site are residential.

Appeal on Ground (c)

6. Your argument under this heading is that no breach of planning control has taken place in that the activities carried on have the benefit of planning permission. In my view this is really a ground (b) argument and I shall consider it under that head.

Appeal on Ground (b)

7. Your case is that the business carried out at the appeal premises is the retail sale of newspapers and magazines and is therefore within the permitted use of the site. You say that the appellant started retail sale of newspapers and his newspaper rounds in 1970 at Woodlands (almost opposite the appeal site). It was the village Post Office and stores, as well as his home. In about 1977 the Post Office and stores was moved to the appeal site together with the retail sales of newspapers, including the paper rounds. Since then you say the size and scope of the newspaper round and the level of activity in connection with it has remained broadly the same, with no exceptional increase in recent years. You stress that the Council has not taken action against this activity which has continued for the past 12 years. You deny that this is a newspaper distribution business, pointing to the practice of newsagents and similar retail outlets to arrange for home deliveries and you argue that the essence of the appellant's newspaper round is retail, whether it be from callers to the appeal site or from the newspaper roundsmen. You say that there is no change in the activity in planning terms just because the village shop element has been discontinued due to declining demand. You maintain that the appeal site is still being used for retail purposes and in any event some newspapers are still sold from the premises. Finally, you point out that a change of use not authorised by the Use Classes Order is not of itself necessarily development.

8. The Council and some local residents take the view that your client's newspaper business at the site constitutes a newspaper distribution business. The Council say that there appears to be no retail use of the site. They contend that, although newsagents prepare deliveries as part of their normal occupation of retail premises, a point is reached when that use is too significant to be described as incidental to the former retail use. There may be a joint use or it may become the predominant use of the site. They argue that the use is not integrated with any other use and point to it taking place at a separate time to any other past or current use.

9. Although you say that the permitted use and the use complained of are both retail, I take the view that a shop or retail use offers goods (and sometimes services) to visiting members of the public. "...the sale, display or service ... to visiting members of the public" are the words used in Class A1 of the Use Classes

Order 1987 in defining shops, but in my opinion this feature, of members of the public coming to the premises, is in any case implied in any commonsense definition of a shop. I accept that newsagents (and some other shops) as part of their normal business practice supply, for example, newspapers by means of delivery rounds. I would describe that as a distribution activity which is normally incidental to and does not affect the main retail use.

10. Turning to the appeal site, whether the use at this site constitutes a retail use, a distribution use with ancillary retail use or a mixed retail and distribution use is a matter of fact and degree in all the circumstances. When I visited the premises, I saw newspapers and journals available for purchase in the porch. Inside, one room in which several people were working contained a number of bundles of newspapers and a computer. There were various tools in the other large room which I saw; one room I was not able to see.

11. I observed therefore that there is an element of retail business at the site (but in any case there is no doctrine of abandonment of planning permission and the lawful use of the premises would be retail use even if no retail use were taking place). However, in this case it appears to me that the scale and nature of this newspaper delivery business constitutes at the very least a mixed distribution and retail business, as claimed by the Council, (and might even be regarded as a distribution business with an ancillary retail activity). Although you say that a very small quantity of papers are sold to the odd village shop, you have not provided any evidence regarding the nature of the business, other than a letter from a firm of wholesale news and book distributors who describe your client's services as a retail newspaper delivery service. I have, though, been sent (by a local resident) an example of a Fosseyway News invoice (which refers to discounts) to a garage which apparently retails the newspapers. I saw on my visit the sign Fosseyway News at the appeal premises. I am also told by a local resident that your client serves various outlying village shops. Furthermore, the scale of the activity is reported by residents to be very large. Again, you have not provided me with information on this aspect, though the onus of proof on this ground is on the appellant.

12. I accept that there is a difference between a newsagent's delivery service in the country where a motor vehicle is required to cover the distances involved in the shop's catchment area and an urban or suburban newsagent where deliveries are on foot. In this case, the Council refer to bulk delivery by large van (which of course would occur with a shop) and then collection after sorting by a number of cars/vans for delivery. The area covered by your client is reported to be extensive - beyond Wiltshire, with up to 7 vehicles used for delivery to some 2,000 customers (by one account) or some 9,000 customers (by another account). In addition, it is suggested to me by a resident that the size and scope of the business today is not similar to that which existed some 12 years ago, contrary to what you say. I consider on the basis of all this evidence that the nature of the business has changed; the hours of operation support this view that the character of the activity has altered. For all these reasons I have concluded that there has been a material change of use from a retail lock-up shop to a mixed use for retail use and a newspaper distribution business. Accordingly, the appeal on ground (b) and ground (c) fail.

Appeal on Ground (a)

13. From my view of the site and its surroundings and having read the representations, I consider that the principal issue in this case is whether the newspaper distribution use (as part of the mixed use of the site) results in such noise and disturbance as to significantly detract from the amenities of neighbouring residents.

14. You argue that any noise or inconvenience caused by the activity is minimal, but letters of objection from nearby residents persuade me that there is significant noise and disturbance over and above the level of activity which could reasonably be associated with a retail newsagent. Several residents say that the delivery and sorting takes place between about 0400 hours and 0630 hours. In addition to the delivery van, during this period up to 7 vehicles are loaded for distribution. The complaints refer to noise relating to the arrival and departure of vehicles - specifically engine noise, vehicle doors and radios.

15. I have had regard to policy E12 of the Structure Plan which normally permits small-scale employment, but I consider that in this case there is an overriding objection on the grounds of amenity. The distribution of newspapers on this scale requires a number of delivery vans and these arrive and depart from the appeal premises in the early hours of the morning. I saw the close proximity of residential property to the appeal site. I am aware that with a retail lock-up shop, whether a newsagent's or another type of shop, early morning deliveries may be expected and, in the case of a newsagent's, perhaps also a motor vehicle to deliver papers. However, with regard to the present use, I have concluded that, even with careful management to minimise noise, the use would give rise to such noise and disturbance as would significantly detract from the residential amenities of neighbours in this otherwise quiet village setting.

16. I have considered all the other points raised, including your suggestion that activities relating to your client's other businesses at or near the site may not have been distinguished from the subject business, but I have found nothing to alter my conclusions on the main issue. Accordingly, the appeal on ground (a) fails.

Appeal on Ground (g)

17. You argue that the steps required by the enforcement notice as originally framed are excessive having regard to the authorised use, and that they would preclude any retail newspaper sales by roundsmen or paper boys. I do not accept this. The steps required by the enforcement notice both as originally framed and as corrected by me are effective against the newspaper distribution business and not against ancillary paper rounds by a retail business operating from the site. Accordingly, your client's appeal on ground (g) also fails.

Appeal on Ground (h)

18. You say that 3 months is far too short a period to enable your client to find alternative premises from which to carry on his long established business. Instead you suggest a minimum period of 12 months. I have already indicated my concerns about the impact of the business on neighbouring residents and for these reasons I have no doubt that a long compliance period such as you propose would not be appropriate. The Council have indicated that they remain prepared to give priority to the appellant if he should wish to relocate on their Bumpers Farm Estate, some 3 miles from Grittleton. From my visit I have come to the view that relocation of the business would be a relatively straightforward operation; there seems to me to be little in the way of equipment to be moved. In the light of all this and the Council's information regarding availability of accommodation, I have concluded that 3 months is a sufficient period for your client to make arrangements for alternative premises. The appeal on ground (h) therefore also fails.

19. I have noted your view that the Council are effectively estopped from taking enforcement action and that they should have acted 10 or 12 years ago. However, local planning authorities have discretion as to whether to issue enforcement

notices and the doctrine of estoppel does not operate to restrict them in their use of enforcement powers save in limited circumstances which you have not suggested apply here.

FORMAL DECISION

20. For the above reasons, and in exercise of the powers transferred to me, I hereby direct that the notice be corrected in Schedule 2 by the deletion of the words "a continuing use for that purpose and, in addition" and the insertion of the words "a mixed use for the purpose and".

Subject thereto, I dismiss your client's appeal, uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Town and Country Planning Act 1971.

RIGHT OF APPEAL AGAINST DECISION

21. 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 Gentlemen
Your obedient Servant

Caroline Briggs

CAROLINE BRIGGS BA(Hons) FRTPI Barrister
Inspector

ENC

IMPORTANT -
THIS COMMUNICATION AFFECTS
YOUR PROPERTY

District Secretary's Department,
G. C. Betteridge, LL.B., (Solicitor),
District Secretary



North Wiltshire
District Council

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 443322
Ext. 594

Ourref **E** 211B

Enquiries to Mr McDonald

Yourref

29th November 1989

Dear Sir/Madam,

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

Former Village School, The Street, Grittleton, Chippenham, Wiltshire

The Council have issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your interest in the land. Unless an appeal is made to the Secretary of State as described below, the Notice will take effect on the date shown in the box below and you must then ensure that the required steps for which you may be held responsible are taken within the period or periods specified in the Notice.

If you wish to appeal against the Notice, you should first read carefully the enclosed booklet entitled "Enforcement Notice Appeals - A Guide to Procedure". Then, you or your agent should complete the enclosed appeal form and send it, together with the extra copy of the Enforcement Notice enclosed herewith to the address on the appeal form. Your appeal MUST BE RECEIVED by the Department of the Environment BEFORE THE NOTICE TAKES EFFECT.

There is a requirement on the Council to specify the reasons why the local planning authority consider it expedient to issue the Notice and these reasons are set out in the ANNEX overleaf.

Yours faithfully,


District Secretary

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED 3rd January 1990

To: John V. Pickford
"Woodlands"
The
Street
Grittleton
Chippenham SN14 6 AP

Patricia Pickford
"Woodlands"
The Street
Grittleton
Chippenham SN14 6AP

E211B

Annex (This does not form part of the Enforcement Notice)

Reason for issue:

The use is detrimental to the amenities of the nearby residential property and to the character and amenity of the village.

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

Former Village School, The Street, Grittleton, Chippenham, Wilts.

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 ("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 THREE 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 3rd January 1990

ISSUED 29th November 1989

Signed

C. C. Batteridge

Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this notice relates

Land at The Street, Grittleton, Chippenham, Wiltshire formerly Village School shown stippled on the attached plan.

SCHEDULE 2 - Alleged breach of planning control

The making of a material change in the use of the land from the permitted use of retail lock-up store to a continuing use for that purpose and, in addition, the operation of a newspaper distribution business involving the delivery during unsocial hours of newspapers and similar material, their sorting and their despatch and the use of a number of vans and other delivery vehicles.

SCHEDULE 3 - Steps required to be taken

To cease the use of the land for the operation of a newspaper distribution business.

45. 20

WILLIAMS, CAROL

**the land
referred to:**

Grittleton

Grittleton House
(School)

GRITTLETON CP

Scale 1:2500

Manor Farm