

NORTH WILTSHIRE DISTRICT COUNCIL
ENFORCEMENT REGISTER
INFORMATION SHEET

N/83/265

E/ 265		
APPEAL	yes	no
Plan's Ref <i>N/83/0123/EN</i>		

ADDRESS

*Springfield Farm,
Stanton Lane,
Kington St. Michael*

BREACH of CONTROL

Issuing Authority *N. W. D. C.*

Date Issued *5-11-82*

STOP NOTICES

Date Served

Requiring



Date(s) served

Takes effect *20-12-82*

Compliance by *20-12-83*

Dates Extended by
Secretary of State

*See attached
Notice.*

Date withdrawn

Steps required to be taken

- (i) to discontinue the use of the said land for the parking, repair and maintenance of motor vehicles for purposes wholly unconnected with the agricultural use of the said land.
- (ii) to secure the removal of all motor vehicles unconnected with the agricultural use of the land brought onto the said land for the purposes of their parking, repair and maintenance.
- (iii) to secure the complete removal of the weighbridge and fuel storage tanks and every component part thereof from the said land.

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

Alleged breach of planning control

2(A) Description of the material change of use alleged to have been made

By the making of a material change in the use of the said land from a use in connection with agriculture to a use for the purposes of the parking, repair and maintenance of motor vehicles in connection with the business of a haulage depot which purposes are unconnected with the agricultural use of the said land.

2(B) Description of Operations carried out on the said land

The construction of a weighbridge and tanks used for the storage of fuel.

$N/83/81 \in NF$

~~N 83 | 0123 | ENF~~



Common Services

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Council Ref McD/KP

Pinnegar Finch & Co with
Middleton and Upsall
Church Street
Westbury
Wilts

10 FEB 1984

Your reference

NHW/83/2039/YW

Our reference

T/APP/5408/C/82/3551/PE2

Date _____

- 8 FEB 84

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9

LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981

APPEAL BY MR G T RIDOUT

LAND AND BUILDINGS AT SPRINGFIELD FARM, STANTON LAWE, KINGTON ST MICHAEL

1. I have been appointed by the Secretary of State for the Environment to determine this appeal. The appeal is against an enforcement notice served by the North Wiltshire District Council concerning the above mentioned land and buildings. I held an inquiry into the appeal on 25 October 1983 and 14 December 1983. I have considered all the representations made by you and by the Council and also those made by interested persons and I inspected the site on 14 December 1983.
2. a. The date of the notice is 5 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 from a use in connection with agriculture to a use for the purpose of the parking, repair and maintenance of motor vehicles in connection with the business of a haulage depot which purposes are unconnected with the agricultural use of the land. b. The construction of a weighbridge and tanks used for storage of fuel.
c. The requirements of the notice are i. to discontinue the use of the land for the parking, repair and maintenance of motor vehicles for purposes wholly unconnected with the agricultural use of the land. ii. To secure the removal of all motor vehicles unconnected with the agricultural use of the land brought on to the land for the purpose of their parking repair and maintenance. iii. To secure the complete removal of the weighbridge and fuel storage tanks and every component part thereof from the land.
d. The period for compliance with the notice is 12 months.
e. The appeal was made on grounds 88(2)(a), (d), (e) and (h).
3. The evidence was taken on oath.

SUMMARY OF DECISION

4. The appeal fails under grounds (d) and (e) but succeeds under ground (a) and planning permission is granted subject to conditions.

THE SITE AND SURROUNDINGS

5. The appeal site is in the countryside 3 miles north of Chippenham, fronting the east side of a minor road which links Stanton St Quintin $\frac{1}{2}$ a mile to the north with Kington St Michael to the south. North of the site the lane passes under the M4 motorway to a 'T' junction at Stanton St Quintin with another minor road leading from the village to the A429 to the east. The latter has an interchange with the M4 motorway about $\frac{1}{2}$ a mile to the east of the appeal site.

6. The site's access is at the south end of the frontage and is shared with another haulage yard on about 0.3 ha of land adjoining to the south. Opposite the access is a large agricultural type building about 25 m deep with concrete floor, the front part of which is used for maintenance of vehicles, and the rear part for storage of hay and straw, some on trailers. There is a small office at first floor level at the front. North of this building is a smaller barn used for storing hay with a lean-to shed on its other side containing disused agricultural machinery. To the rear (east) of these 2 buildings is another barn used for storing pig food and farming implements. North, south and west of the buildings is an open surfaced yard on which were in all 7 articulated trailers, 3 loaded with hay or straw, and 2 tractors (one unserviceable). On the south side of the large building are a weighbridge with its platform resting in a concrete shallow pit, and further back, diesel fuel tanks on supports. Open fencing separates the appeal site from the haulage yard to the south, and 2 dwellings beyond. The site is screened along the road frontage and partially screened to the north. Eastwards is open farmland extending to the A429 main road from which buildings and vehicles on the site are visible.

7. North of the site Stanton Lane is wide enough for 2-way traffic but to the south it is single track with a few passing places, sharp bends and poor visibility.

FACTS NOT IN DISPUTE

8. Your client bought Springfield Farm comprising 60 acres in 1956 and at first ran it as a dairy farm, with the help of his father a retired Thatcher. He erected most of the necessary cowsheds himself, and lived with his father in the bungalow near the appeal site. In 1960 he started trading in hay and straw using an outside contractor for deliveries. He would buy standing straw, bring it to Springfield Farm thresh it and sell it for thatching, using his own $2\frac{1}{2}$ ton Bedford lorry for nearby deliveries and hiring a lorry for longer trips, from a Chippenham firm. He also has a landrover and trailer in which he used to haul calves to market from 1960 to 1965. The lorry from Chippenham was used for hauling twice a week in summer and once in winter; on the other days your client drove it on the owners business and used to keep it overnight at the appeal site. Business continued at this level until the end of 1962, though no details of tonnages carried can now be given; at this period your client was hauling mainly for local farmers. He also extended his business to Newtown (Powys) and arranged with a Welsh haulage contractor from 1963 onwards to supply all his requirements of hay and straw, for about 20 or 30 other farmers in Central Wales. The supplies were obtained from farms all over the Cotswold area. He has continued to supply this customer ever since. Also during the bad winter of 1962-63 he transported cattle for farmers in his landrover and trailer and gained a number of new customers as a result.

9. In the summer of 1963 your client left all the dairy work at Springfield Farm in the hands of his wife and father, and finished working for the Chippenham firm. He started collecting and delivering straw full-time and employed a man to come and service his vehicles, which were kept in the open, as the farm sheds were still needed for the animals. He also purchased another larger Bedford lorry in September with a cattle container body so that it would carry both stock and produce. Thenceforth he operated 2 vehicles full-time in his haulage business.

10. In 1964 he bought another flat lorry for haulage, and first employed a full-time driver. He also bought Laurel Farm, Hankerton, and moved there with his wife

taking the cattle with them. His father remained at Springfield Farm, which was then used to produce a crop of thatching straw for the next 3 years. The crop was sold all over southern England, and stored at Springfield Farm prior to sale. Your client continued hauling hay and straw to South Wales, and taking cattle to local markets throughout 1964. In 1966 he gave up 15 acres of farm up for construction of the M4 motorway though deeds were not completed till 1968 and later sold 35 acres to another farmer, who had also given up some of his land. Your client did his office work for the haulage business at Hankerton though parking his lorries at Springfield Farm and his father supervised their maintenance there and the storage of hay and straw. There was a telephone number for both farms, on his letterheads. Since 1978 your client has only owned the 7 acres of fields and the appeal site at Springfield Farm.

11. After buying the second big lorry in 1964 others were added in 1965, 1967 and 1968 and the first articulated vehicle obtained in 1969. During the period 1964-1968 the buildings at Springfield Farm were being used for storage and in 1968 a shed for maintenance and a hardstanding of vehicles were constructed to comply with haulage licensing requirements. Existing pig sties were retained but an old cow shed had to be demolished for this purpose. In 1978 permission was granted for the erection of the existing large barn on the appeal site for farm animals and storage of produce, which meant another cowshed was demolished. The barn has since been used for storage of hay, and maintenance of lorries and trailers. The pigs continued to be kept on the 7 acres of land but they did not thereafter occupy any of the appeal site. In about the autumn of 1978, some 4 months after the shed was erected, a weighbridge was installed at the rear of the barn and later moved to its present position near the front of the barn. It was completed 3 months before the storage tanks were erected. The platform of the weighbridge fits over a shallow concreted pit but the weighbridge as a whole can be dismantled in an hour and moved anywhere. The concreted hardstanding area at rear of the 1928 building is still there.

12. From 1956 to 1980 your clients father lived at Springfield and supervised the maintenance of vehicles. He died in 1980, and your client through an advertisement made contact with an owner of a general haulage business who was looking for a yard for his 8 lorries. Although it was made clear that the land carried no permission for a haulage use, this person bought the bungalow and land on the south side of the site. He then brought lorries on to an area of grassed garden land between the appeal site and the bungalow of Springfield Farm. For some months in 1981 your client shared the area of the 1978 building and some adjoining land with Mr Sheehan (the owner of the other business) and they contemplated forming a limited company for the purpose of maintaining their 2 fleets of haulage vehicles together within the large barn, but in the end this fell through. An enforcement notice was later served on Mr Sheehan, but the 2 businesses since 1982 have been completely separate, although they carried out maintenance jointly in 1981. A draft conveyance which was drawn up for the purpose Mr Sheehan renting the large barn for maintenance included a small area outside the barn for parking, a part of the present appeal site.

CASE FOR THE APPELLANT

13. Evidence on behalf of your client which the council have been unable to challenge includes direct testimony from 3 persons with whom he dealt in the period 1960-1964 and supporting documents. It proves that he was operating a haulage business from the appeal site at Springfield Farm on a substantial and full-time basis. He was running a country wide haulage business for agricultural produce with 2 lorries and a smaller vehicle well before the end of 1963, and also dealing with local customers. The material change of use at the site occurred before the end of 1963 and the appeal should succeed on ground (e). Although the business has developed further since then, there are only 7 vehicles now, and this has not amounted to intensification

sufficient to bring about any further change of use. In this respect, any lorries or trailers belonging to the haulage use on the adjoining site must be discounted. It is the original change occurring before the end of 1963 which is the important one, and your client's case is supported by an earlier one reported in JPEL in 1978 p.48. It takes only a small part of the whole operations on a particular site to change, to amount to a material change of use on that site, and to establish the use rights which will permit a more extensive business of the same claim at a later date.

14. Under ground (d), the evidence shows that the weighbridge and fuel tanks were installed and erected more than 4 years prior to the service of the notice. In the case of the former, there is also the argument that the notice is incorrect in alleging an operation, since it is doubtful whether the very minor work needed to instal the weighbridge can be so described. The weighbridge can be moved after dismantling, within an hour, and be placed anywhere. Keeping it at the site is therefore a change of use, if it amounts to development at all. Evidence of an aerial photograph of the site taken for the Council as part of an aerial survey in 1971 is difficult to interpret and inconclusive; it supports your client's case rather than the contrary.

15. Your clients haulage business, at Springfield Farm at the time of service of the notice and currently, is mainly for carrying hay and straw from central and eastern England to the west of the country where for various reasons they cannot be produced. He buys these commodities from farmers in Hampshire, Berkshire and the Wiltshire downs and sells in South Wales, Cornwall and Devon, using mainly the M4 and M5 motorways. Return loads of agricultural fertilizers and farm machinery are carried. Farmers in the areas of shortage would be badly affected without such a service, which your client after 20 years experience operates quickly and efficiently.

16. The business depends upon his being able to move the product quickly from the land so that farmers can then get on with the next cultivation, and he can clear 250 acres in 1 day. Because of his service many farmers who otherwise might burn straw and stubble do not do so. Your client has his own 12 trailers to move straw and at peak periods hires a further 12. His sub-contractors first go round the farms from which he has bought straw and do the baling and stacking at pre-arranged places for collection by lorry drivers. This gives employment to about 20 persons in the season, with 4 or 5 more youths on stacking work. In the haulage business itself 7 men are employed, including a fitter, 5 drivers and a general purpose workman. The drivers convey the baled hay and straw from the various farms to Springfield Farm where there is capacity to store 1,000 tonnes. From these stores your client supplies his 500 or so customers through out the year, annual turnover being about 18,000 tonnes. His methods enable him to supply regular customers in bad years, including racing and riding stables and zoological gardens. Return loads of other agricultural produce and machinery are necessary to make the long trips economically viable.

17. Turnover in cash is about £250,000 value of hay and straw, and the same for the haulage side of the business. If the depot was wound up only 1 of the 7 employees could be retained as Springfield Farm could only be used for storage. At present there are 7 lorries in use, including 4 articulated vehicles, 2 flat-beds and a cattle lorry. The latter is used locally, the 6 other lorries are for the hay and straw operations. As well as the depot and 7 acres of land at Springfield, your client owns Nables Farm where he lives and farms 120 acres nearby.

18. The Council seem to accept that on highway grounds there is no substantial objection to an agricultural haulage business at the appeal site, as distinct from any other kind of business. Traffic generation, on average amounts to 5 inward and 5 outward movements daily rising to 10 each way in peak periods. The location in an

isolated position close to the motorway is ideal, as lorries do not have to pass through Stanton village or other residential areas, and never take the route along the narrow road to the south which is impossible for large vehicles. Thereby haulage costs to local farmers are kept down, and few local residents affected. The route to the M4 passes only 9 dwellings, and your client's vehicles are only a few of the agricultural haulage type of vehicles to be expected along the Class C roads in this predominantly rural area. There is no problem of the highway being inadequate for the purpose, visibility being good at all the junctions used including the appeal site access, and vehicles being able to pass at all points. The record of accidents for this area during the past 3 years includes only one on the route to the A429 (a bus route) and that occurred in unusual circumstances; your client's vehicles were not involved.

19. Your client operated his service along this route until the beginning of 1981 before any complaints arose, and these were caused by the starting of the general haulage business on the land adjoining to the south. The Council have produced no statistics to support their view that the access roads are inadequate for haulage vehicles, and if the numbers of vehicles in use were limited to a total of 6, which your client suggests, the appeal site would generate no more traffic than an average farm. If the enforcement notice were upheld, and your client had to hire transport, the impact would probably be much greater.

20. The Council stress the policy aspects of this appeal but their interpretation of the policies is unjustifiably negative. They attach too much importance to the superseded concept of "white" land in the old Development Plan; in fact there are no current policies which discriminate against your client. In the approved Structure Plan Policies E2, E13 and E14 encourage employment growth in rural areas and the plan as a whole recognises the need to sustain growth in rural areas. The site is not in the Green Belt or an Area of Outstanding Natural Beauty, and is not productive agricultural land which the Structure Plan seeks to protect. In particular Policy E14 (as modified) allows the change of use of buildings to use for employment purposes subject to certain provisos met at the appeal site, and in the draft Chippenham Local Plan the same attitude is reflected in Policy E10. Circular No 22 of 1980 advises that development should only be restricted when this serves a clear planning purpose, and advocates compromise rather than the service of an enforcement notice. The issues here, as stated in another recent appeal decision are whether in the above context the needs of the business and its value to the community in providing employment are overriding factors, whatever objections there may be (if any) on policy and amenity grounds.

21. Visually the site is no different from any other group of agricultural buildings, and can only be seen from one or two points on the A439 and motorway. There is effective screening and the hay and straw kept make it look more like a farmyard than anything else. Its impact must be distinguished from the adjoining open haulage yard with large container vehicles. Most of the time your clients tractor vehicles are inside the main building, and a good deal of hay is stored there as well. Activities are not such as to cause any annoyance through noise or smell; the business is essentially agricultural in character and does not resemble a general haulage business. The business is ideally sited in an agricultural building within the rural area and plays an essential part in the agricultural economy. It prevents some of the waste of hay and straw in the country as well as providing employment not only for his own staff but for the baling contractors. Without your clients service his regular customers would be in trouble in the short term, and farms from whom straw is bought would have to burn stubble with unpleasant consequences. The enterprise may be commercial but it has existed so long without complaint that there is no sound reason for destroying it.

sometimes at weekends, also adversely affect the amenities of dwellings along the routes leading to the site, particularly in the one between it and the motorway junction. This is a feature of a haulage business which it is impracticable to control by means of a condition. Complaints supporting these objections arising from the impact of the haulage use on the surroundings were the reasons for the Council serving the enforcement notice.

20. There are also objections on account of hazards caused to road users. The site is accessible both from the north and the south from Chippenham, but whilst the latter route is shorter by one mile, it is along a very narrow section of the Cl72 with a 2½ or 3 m carriageway and unsatisfactory visibility in many places. This route is absolutely unsuitable for heavy vehicles, which can cause hazards to local residents who often use Stanton Lane for a country walk. On the outskirts of Kington St Michael where the Cl72 joins the Cl54 the junction is inadequate for large vehicles which have to pass close to the wall on its south-east side when turning towards Chippenham. The Cl54 in Kington is a bus route and forms the main village street where there is much on-street parking. At the south end of the village a bend with restricted visibility is a hazard to drivers and properties alike. Although it might not be practicable for a lorry with trailer to negotiate this road, it is quite possible tractor units without trailers use it and these are some 2.4 m wide. Travelling north from the site the 'T' junction at Stanton St Quintin is unsuitable for long vehicles which have to cross into the wrong lane to turn into or out of the C72. The carriageway of this road from the junction to the C429 is mostly only 5 m wide with narrow verges, and a bend with restricted visibility so that large vehicles cannot pass each other easily. All other routes leading to the site are via Class C roads, not designed for and inadequate and unsuitable to accommodate lorry traffic satisfactorily.

21. At the site the access (shared with the plot to the north) is not wide enough for articulated vehicles to enter or leave in both directions without damaging the grass verges by over-running and if permission were granted it would have to be widened to eliminate this.

22. During the 3 year period ending 31 May 1983, 13 accidents were reported to the Police on roads leading to the site. All involved vehicles travelling in opposite directions meeting on roads with only narrow width available. Eight were in Kington St Michael (Cl54), 4 along the Cl72 and one in the C72. A haulage depot which generates lorry traffic using the roads on which such accidents have occurred is detrimental to the safety of all other road users. The suggestion that an order be made restricting the weight of vehicles using the Cl72 and Cl54 is unlikely to be acceptable to the Highway Authority because of the numbers of such requests and the difficulty of enforcing the orders.

23. Before serving the notice the advice in Circular 22/80 about small businesses was taken into account. However the Council consider the use is an unacceptable intrusion in open countryside detrimental to the rural amenity, causing disturbance to local residents and resulting in large vehicles using narrow country roads. Therefore notwithstanding the passages relating to small businesses in the circular, the objections are so great that permission ought not to be granted. The Council's suggestion, in response also to the Circular, that a site at Bumpers Farm Industrial Estate is an adequate discharge of their responsibilities, since this is an appropriate location and undeveloped land is available for the applicants to use as they wish. Another large haulage contractor is there already and negotiations for a plot are being made by another.

24. If the notice is upheld the requirements are neither unreasonable nor excessive to remedy the breaches of control. Firstly they ensure that the unauthorized and unacceptable activities and structures are removed. It is appreciated that if they

THE CASE FOR THE PLANNING AUTHORITY

27. The only original evidence of use of the site prior to 1980 which the Council can produce is the 1971 aerial photograph. This does not show anything other than a normal farmstead at the appeal site, and there is no sign of any area fenced off or enclosed as a depot, such as may now be seen. The Council however differ sharply from your client in the interpretation of the evidence which he himself has submitted. There is no analogy between these circumstances and those in the Bromley London Borough case concerning the proportion of "brought in" produce before and after an alleged material change of use. It is significant that your client's appeal was originally on ground (a) only and that in a letter of 10 May 1982 his agent agreed that the present intensity of use was not established. The Council say, whatever haulage business there was before the end of 1963 did not continue at the appeal site thereafter and may well have been moved with your client to Hankerton in 1964. The heading of the invoices shows this could well have been the case, and there is no direct documentary evidence to support a haulage use at Springfield Farm.

28. Throughout the period beginning in 1956 up to 3 years after 1964, when your client had moved, Springfield Farm was an agricultural unit used for agricultural purposes. It was only after the erection of the large agricultural building, supposedly for the purpose of storage of farm animals and produce was authorised in August 1978 that there was any possibility of a haulage depot at the site. Evidence from one of your client's witnesses is against the concept of a haulage business being run from the site throughout the period beginning in 1962 or 1963 up to 1978. Once erected, the building was either used in conjunction with one or more agricultural holdings, or later because the base for a haulage business and the storage of goods. Your client's activities with his neighbour Mr Sheehan from the end of 1980 until they severed their connection indicates that by that time haulage was their main interest.

29. Although therefore the Council accept that goods not exclusively agricultural, and unconnected with Springfield Farm, were carried in 1963 and thereafter from the appeal site, the use of the land at that time was mixed, for farming and carrying and storing produce unconnected with the farm. Certainly after the end of 1963 for some years the agricultural use of the site continued, until most of the holding was sold and only 7 acres remained. There was thus a material change of use to a haulage depot later in 1978 or 1979 as a matter of fact and degree on the small area comprised in the appeal site, which required planning permission, and the appeal under ground (d) should therefore fail.

30. As regards the weighbridge and fuel tanks the Council have no clear evidence of the dates of construction, but assume the former must have been installed some appreciable time after the large agricultural building was erected. It is for your client to produce satisfactory evidence but he has not done so. There are sufficient engineering operations involved in installation of the weighbridge for the breach of control to be described as such in the notice, but if this is considered not to be the case the Council would not be unduly disturbed if this part of the notice was excised.

31. On the planning merits, taking highway considerations first, the Council's view is that apart from the route northwards from the site, some of which was improved in about 1970 in connection with works for the M4, the others leading to the site via Class III roads are inadequate and unsuitable for long traffic. In particular the shorter route to Chippenham to the south is along a section of the Cl72 minor road with very poor vertical and horizontal alignment and a narrow carriageway. The restricted visibility means that any large vehicle using this highway is likely to

endanger pedestrians and other traffic. The appeal site access, shared with the haulage depot to the south, is also inadequate for articulated vehicles and causes them to cross to the offside of the highway and overrun the verges. Additional width is needed to make it satisfactory. Although only 1 of the 13 reported accidents within the 3-year period from 7 June 1980 to 31 May 1983 was on a route used by your client's lorries, development generating lorry traffic on roads where such accidents have occurred is detrimental to the other pedestrians and motorists using them.

32. The type of vehicles used creates difficulties and hazards when they have to pass other similar heavy vehicles which could well use the route to the north of the site, from Stanton St Quintin, where one of the accidents occurred. The use of the access is not equivalent to that of an ordinary farm because of the high proportion of large articulated vehicles. Limitation of these to 6 only might be acceptable in highway terms, though there could still be hazards, inconvenience and disturbance to residents along the route taken by the lorries. The attraction of a motorway interchange is always likely to encourage haulage firms to settle in unsuitable sites without regard for local conditions.

33. In the first Quinquennial Review of the County Development Plan, approved in 1970 the site is included within a 'white' area where existing uses are to remain for the most part undisturbed and only development essential to agriculture or forestry should be approved. The Council attach much importance to this Plan for certain development control purposes while it remains in force. Although the Western Wiltshire Structure Plan became operative in June 1981, and the Chippenham Local Plan was certified in May 1983 as conforming to the Structure Plan, established policies are not seen as giving any positive encouragement or favour to a haulage business in this location. Policy E13 of the Structure Plan does not apply because it relates to sites on the edge of villages, and Policy C7 provides that new buildings for warehousing and storage of agricultural products not related to the use of the land on which they are situated will not be permitted in the countryside.

34. This is not the right place for a haulage use which does not deal with local farms and collects and delivers within a radius of 100 miles or more. In this open countryside on elevated ground the haulage depot is an alien use, well outside any settlement, and detrimental to the character and visual amenity of the surroundings both in itself and by reason of the movements of large vehicles. An ugly, large building such as that at the site may be tolerated in the countryside if used for agricultural purposes, but not for repairing and maintaining vehicles. Large yellow tarpaulins covering hay on trailers kept in the open are also visible from a distance and an intrusion in the rural scene.

35. Complaints from local residents in Stanton St Quintin first caused the Council to investigate the use of the appeal site and adjoining land. The use by its nature generates traffic at early and sometimes late hours and weekends, which affects residents on the road between the site and the motorway interchange. The weighbridge and fuel tanks are an integral part of the use which can attract additional traffic to the site and add to the detrimental effects of the use. If permission were granted there would be a much greater permanent impact than was caused by the type of business your client was running before the end of 1963.

36. Initially when investigating the case the Council did not distinguish between your client's activities and these of his neighbour, who owns the adjoining haulage business to the south, on land which your client sold 3 years ago. Eventually however 2 separate notices were served, and since April 1981 your client's agent

has been urging that in view of the past use of the site some agreement or compromise should be devised and a carefully controlled planning permission should be given. The fact that your client had operated from the site in the past on a smaller scale was again in 1982 put forward as a material consideration but for the reasons already given the Council did not take the view that there was an established use as a haulage depot. The views were discussed at the appropriate committee meetings on 3 separate occasions by the Council and a visit paid by members to the site, before enforcement action was authorised. More attention and consideration were given to your client's case than to most of the planning cases which come before the Council.

37. It is wrong to suggest that the members were unaware of the advice in Circular 22/80 regarding small businesses. Notwithstanding the absence of any specific mention of the Circular on the reports to the committee, the members would have borne its contents in mind in dealing with the case. It was considered nevertheless that the haulage use was unacceptable for planning reasons. In their opinion your client's business did not qualify for consideration as a small firm since it has a turnover of about £250,000 per annum and there are 7 employees. This category is intended to cover persons just starting in business with 1 or 2 employees and a much lower turnover. The immediate potential of your client's business, if planning permission were granted, would be considerable.

38. A grant of permission will also create a precedent for many others wishing to develop a haulage business near to Swindon with easy access to the motorway. There are examples, one very recent, of haulage businesses growing out of other activities, which in the past involved an element of carriage of goods. Your client believes the depot to be no different in appearance than a farmyard but if this were an acceptable criterion haulage or industrial uses could spring up in many places in the rural area, contrary to the Development Plan Policies.

39. Admittedly no alternative sites were suggested to your client but the possibility of a site at the Bumpers Farm industrial estate was mentioned in discussions prior to service of the notice. There are other industrial estates in North Wiltshire District but they are further away.

40. The time allowed for compliance with the notice is generous and the Council would not wish it to be extended so long that a temporary permission has to be granted and fresh enforcement proceedings started if the condition is not complied with.

CONCLUSIONS

41. I deal first with ground (e) which relates to the principal use of the appeal site. I am satisfied from the evidence that your client was using his own vehicles at the appeal site before the end of 1963 for carrying agricultural and other produce as part of a business separate from the agricultural use of the Springfield Farm holding. However, the motorway at that time did not exist, there is no evidence as to the turnover or number of customers served, or the tonnage carried annually, and the vehicles were small enough to negotiate the narrow local roads. Your client was the only driver, and the lorries were kept in the open on land used for agricultural purposes as part of a viable dairy farm, the buildings being needed for this latter purpose. In my opinion the character of the use of the appeal site (as part of the larger planning unit of the whole holding) was mainly agricultural, in spite of the acknowledged haulage use.

42. When the notice was served the position was different. The site was in use as a base for at least 7 large vehicles, 4 articulated. There were probably a greater number of trailers, loaded with straw, and all the vehicles were there for the purpose

of your clients business of collecting, storing and distributing hay and straw. Moreover the building erected in 1978 "for the storage of farm animals and produce" was in use also for the same purpose and for the maintenance and repair of vehicles. The only remaining agricultural use of the site (by now separated from the adjoining field) for storing pig food was very small by comparison. The current lack of business and number of customers indicate by comparison with 1963 that the character of the use of the site has changed materially from the use at the end of 1963 to that alleged in the notice. Although the transition may have been gradual, I am satisfied that a material change did not occur until after the beginning of 1964, probably after the improvements to local roads were carried out and your client had sold most of Springfield Farm. The appeal on ground (e) therefore fails.

43. As regards ground (d), it seems to me that as the weighbridge cannot be installed except by the excavation of a pit to hold part of the mechanism, the notice is correct in alleging a breach of control by an operation and not by a change of use. As I am not satisfied that it was installed in its present position, after having been at the rear of the site, more than 4 years before the date of service of the notice, the appeal fails on ground (d). The full storage tanks were erected later, but your client's was not sure in giving evidence and again I am not satisfied that this was 4 years before the service of the notice. This part of the appeal also fails on ground (d).

44. Under ground (a) I consider the main issues to be whether the development alleged in the notice conforms to current development plan policies, whether it detracts significantly from the visual amenities and living condition of nearby residents, and the safety of other road users, and finally whether there are any other special circumstances to be taken into account.

45. In reaching my conclusions it is only realistic that I should bear in mind that there is another appeal before me relating to the adjoining site, and I have issued my decisions simultaneously, although I fully appreciate that each must be considered on its own merits. In the context of your client's appeal I note that the provisions of Circular No 22 of 1980 and the current West Wiltshire Structure Plan (Policies E2, E13 and E14) generally encourage the formation and expansion of small businesses and the Chippenham Local Plan (as yet unadopted) permits the use of disused buildings for this purpose subject to provisos. However they fall short of providing positive justification for the current use of the site because inter alia of its isolated location, and the general impact of the large building (if not used for agricultural purposes) on the countryside. On the other hand countryside Policy C7 of the Structure Plan invoked by the Council applies only to new buildings and the old style Development Plan concept of "white" land has to be viewed in the light of the more recent and flexible policies, because of the employment issues and the need to encourage small industries.

46. To this extent it is necessary to strike a balance between these factors and planning considerations, and a good deal therefore turns on the particular circumstances of this case. It is to be expected that a building of the size permitted at the appeal site will generate some traffic even if used for the authorised purpose. The site is fairly well screened by comparison with the adjoining one, although I agree with the Council that the present use which can be seen from the east does intrude on the surrounding countryside, to a greater extent than an agricultural use. However if the number of vehicles were limited and the access improved, I do not think overall impact on the visual amenities would be significant or that undue hazards would be caused to road users or undue disturbance to roadside residents, beyond what might be expected in this rural area. Certain of the approach roads are so impracticable for heavy vehicles that I do not think they are likely to be used by your client's vehicles.

47. Bearing in mind that he specialises in hauling hay and straw and thus gives a particularly useful service to farmers both generally and locally, that this provides employment and that a haulage use on a small scale existed at the site for some years without complaint, I consider on balance that there are sufficient special circumstances to justify permission for a continuation of the business on the scale supported by your client, provided that he himself remains in charge. Another factor which has influenced me is the difficulty in finding a suitable alternative site at a reasonable cost to the business, although because I still consider that the Council should have an opportunity to review the position and see that the conditions are being observed the permission will be a temporary one. Permission will be granted for retention of the weighbridge and fuel tanks, since both are necessary adjuncts to the haulage depot. Neither, especially the weighbridge, are of such durable and permanent construction that there would be any difficulty in removing them at the end of the temporary period if this were considered appropriate in the circumstances. The appeal therefore succeeds to this extent under ground (a). I have taken into account all the other matters raised at the inquiry but they are not such as to affect my decision.

FORMAL DECISION

48. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your client's appeal quash the enforcement notice and grant planning permission for continuation of the parking repair and maintenance of motor vehicles at the appeal site in connection with the business of a haulage depot, and for the retention of a weighbridge and tanks used for the storage of fuel, subject to the following conditions:-

1. The use hereby permitted shall cease on or before 31 January 1989, when all motor vehicles unconnected with the agricultural use of the land brought on to the land for the purposes of parking, maintenance and repair shall be removed, and also the weighbridge and fuel storage tanks and every component put thereon.
2. The uses hereby permitted shall be carried on only by Mr G T Ridout and shall be discontinued on the date when he ceases to occupy the premises.
3. Not more than 6 lorries shall be operated from the site in total including not more than 4 tractor units and 4 trailers at any one time.
4. No vehicles shall be based or repaired at the site other than vehicles in the ownership and control of the appellant Mr G T Ridout.
5. No vehicles shall be repaired or maintained outside the buildings on the site.
6. No loading, unloading or storage of goods (other than on vehicles) shall take place except within the building on the site used for maintenance of motor vehicles.
7. Within 6 months of the date of this letter the site access shall be widened as may be agreed with the local planning authority in consultation with the highway authority.

49. 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.

50. 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.

RIGHT OF APPEAL AGAINST DECISIONS

51. This letter is issued as the determination of the appeal before me. Particulars of the right of appeal to the High Court are enclosed for those concerned.

APPLICATION FOR COSTS

52. Your client's application for costs has been reported to the Secretary of State.

I am Gentlemen
Your obedient Servant



A H T CLAYTON MA (Oxon)
Inspector

ENC

APPEARANCES

FOR THE APPELLANT

Mr Patrick Ground

- Senior Counsel, instructed by Pinnegar, Finch and Co, with Middleton and Upsall, Church Street, Westbury, Wilts.

He called:

Mr G T Ridout

- Appellant.

Mr R E Woolnough

- Local resident.

Mr G E Jones

- Farmer and haulage contractor.

Mr W A Isaac

- Local farmer and resident.

Mr P L Evans MSc BEng CEng
MICE MCIT

- Transport Planning Consultant.

Mr K J Chapman BSc DipTP MRTPI
MBIM

- Town Planning Consultant.

FOR THE PLANNING AUTHORITY

Mr J F McDonald

- Principal Administrative Officer, North Wiltshire District Council.

He called:

Mr L Prebble MRTPI

- Principle Planning Officer, North Wiltshire District Council.

Mr T P Geering

- Assistant Engineer, Planning Liaison Secretary, Highways Department, Wiltshire County Council.

DOCUMENTS

Documents 1 and 1A - Lists of persons present at the inquiry on 25 October and 14 December.

- " 2 - Notice of inquiry to nearby residents.
- " 3-6 - Invoices for hay and straw supplied by appellant 1962/63.
- " 7 - Conveyance of Springfield Farm dated 16 November 1956.
- " 8 - Draft conveyance of bungalow and land at Springfield Farm, dated 23 December 1980.
- " 9 - Draft lease Buildings at Stanton Lane, 1981.

DOCUMENTS (Cont'd)

Documents 10-32 - Letters in support of appellant, handed in at inquiry.

- " 33-35 - Details of lorries owned by appellants from 1 October 1962 to 30 September 1980.
- " 36-38 - Statements of account, year ended 30 September 1964, and letter from HM Inspector of Taxes, Chippenham.
- " 39 - Letter from National Farmers Union dated 25 June 1981.
- " 40-46 - Correspondence between appellants agents and North Wiltshire District Council, from 10 March 1981 to 27 January 1982.
- " 47 - Note of meeting of Planning Committee on 25 January 1982.
- " 48 - Press report of above meeting.
- " 49-57 - Correspondence between appellants agents and North Wiltshire District Council from 29 January 1982 to 20 May 1983.
- " 58 - Note of meeting of Planning Committee, on 3 June 1982.
- " 59-64 - Correspondence between appellants agents and North Wiltshire District Council from 25 April 1983 to 20 May 1983.
- " 65 - Press cutting from Wiltshire Gazette and Herald of 11 February 1982, relating to Bumpers Farm Industrial Estate.
- " 66 - Letter dated 24 October 1983 from nearby resident.
- " 67 - Letter from the Council for the Protection of Rural England, dated 6 October 1983.
- " 68 - Letter from Mr W A Isaac to the North Wiltshire District Council dated 12 June 1981.
- " 69 - Copy of decision letter No T/APP/5408/C/83/84/PE2 dated 27 October 1983.

PLANS

Plan A - 1/2,500 Plan accompanying enforcement notice.

- " B - $\frac{1}{16}$ ins and $\frac{1}{8}$ ins = 1 ft. Plan and elevations, general purpose building, Springfield Farm.
- " C - $2\frac{1}{2}$ ins = 1 mile. Class C roads in vicinity of appeal site.
- " D - 1/10,000 Location of reported accidents in relation to appeal site.
- " E - $2\frac{1}{2}$ ins = 1 mile. Location of appeal site and M4 motorway.

PLANS (Cont'd)

Plan F - $2\frac{1}{2}$ ins = 1 mile. Plan showing long route to M4.

" G - $2\frac{1}{2}$ ins = 1 mile. Location of accidents.

" H - 1/500 Appeal site in relation to land sold to Mr Sheehan.

" K - County of Wiltshire showing appeal site and COSIRA priority area, with Districts.

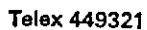
PHOTOGRAPHS

Photos 1-13 - Views of appeal site and access taken in August and September 1983.

" 14-24 - Views of highways and road junctions in vicinity of appeal site, taken in August and September 1983.

" 25-26 - Views of adjoining haulage site, taken at the same time as Nos 1-24.

" 27 - Aerial photograph of appeal site, September 1971.



0272-218 914
0272-218811

Your reference
RAF/MS
Our reference
T/APP/5408/C/82/3472/PE2
Date

- 8 FEB 84

e. The appeal was made on ground 88(2)(a), (e) and (g), but at the inquiry ground (e) was withdrawn.

3. The evidence was not taken on oath.

SUMMARY OF DECISION

4. The appeal fails under ground (a) and the notice is being upheld, subject to variations in the requirements.

THE SITE AND SURROUNDINGS

5. Springfield Farm is in open country about 3 miles north of Chippenham, on the west side of Stanton Lane a Class C road linking Stanton St Quintin half a mile to the north with Kingston St Michael a mile to the south. The land is about half a mile west of the A429 main road and joins another Class C road running from Stanton St Quintin west to the A429 at a 'T' junction on the outskirts of that village. Just north of the site Stanton Lane passes under the M4 Motorway, to the west of its interchange with the A429. Another Class C road joins Kingston St Michael to the A429 about 2 miles to the south. There is a right of way access to the site over an entrance to the land immediately north of the site, in use as a separate haulage depot, on which a large agricultural type building stands near the northern boundary of the appeal site, along which is a post and rail fence.

6. On the southern part of the appeal site is a bungalow with grassed areas at front and rear and a small outbuilding connected to it by a short covered way, in use as an office. A close-boarded fence along the southern boundary screens the bungalow from an adjoining cottage, beyond which is open country. The northern half of the site, separated from the bungalow by a similar close-boarded fence is surfaced with hardcore and used for parking cars and haulage vehicles. Along the eastern side of this area, not screened from the adjoining countryside were wooden palletts, one empty covered trailer and 2 others used for storage of tyres and spare parts, and a forklift truck. There was also a pile of coal in plastic containers near the bungalow. This part of the site is screened along the Class C road frontage by another length of close-boarded fencing. North of the appeal site Stanton Lane is wide enough for 2-way traffic but to the south it is single track with a few passing places, sharp bends and poor visibility.

CASE FOR THE APPELLANT

7. Your client purchased the appeal site as a bungalow with its own yard in December 1980 for his existing general haulage business because of difficulties in finding permanent accommodation in Bristol. The vendor Mr Ridout who still runs his own haulage business on the site immediately adjoining to the north told him there would be no planning difficulties over the use because the yard had been used for so long for haulage that it was immune from planning control. Your client's solicitor's inquiries before contract seemed to confirm this and he therefore bought the property in good faith and certainly not with the cynical intention of starting a haulage use in breach of planning control irrespective of the established use of the site. He paid a price commensurate with the site having a haulage use. At that time the bungalow was being used for residential purposes and the yard, though not so well surfaced as now, as a transport yard in conjunction with the land to the north. Also the large barn to the north on Mr Ridout's land with a further yard on the other side were clearly in active use for the same purpose.

8. From December 1980 your client operated his haulage business for a time in conjunction with Mr Ridout's including entering into a partnership for servicing vehicles, and this lasted for about a year, until he discovered that there was some doubt about the established use of the appeal site as a haulage yard. His solicitor advised that it was not worthwhile taking the matter further with Mr Ridout, who by now had told him of complaints about the vehicles from local residents. None however have ever been made to him directly and he has been on good terms with neighbours. At the present time your client has 3 x 24 ton (gross) and 5 x 33 ton (gross) articulated lorries in his business and employs 6 full-time drivers (some of whom live locally) and 2 casual drivers. The site is not big enough for more lorries. He does not now refuel or maintain lorries on the site, this being taken care of at Bristol, but does only small jobs such as mending a puncture. He has built-up good local connections and generally deals with a few well-established companies on a regular basis including 2 large firms at Chippenham, one at Swindon and Marks and Spencers at Bristol. Only very occasionally are goods stored at the site, when it is necessary to transfer them from one vehicle to another, as his customers often load the trailers themselves and the tractors collect and deliver without bringing them to the site. Sometimes the tractors are at Bristol in the week and do not visit the site for several days.

9. As a result the maximum number of vehicle movements in and out of the yard does not exceed 10 per day and is often less, because one vehicle is always spare or under maintenance in Bristol and some are not in use or away. The movements do not occur outside the hours of 6 am to 8 pm, and are made only northwards from the site to join the motorway via the 'T' junction to the west of Stanton St Quintin to the A429 and thence to the motorway. None go through the village itself and it is impossible for them to use the lane to the south because of its narrow width and alignment. In estimating the impact of these movements on the surroundings, account must obviously be taken also of the movements to and from Mr Ridout's yard adjoining, but it is understood these amount also to not more than 10 vehicle movements per day, except during July, August and September when they may amount to 20. When he first occupied the site your client used a small porch or conservatory at the front of the bungalow as an office but uses a small outhouse connected to it at the back.

10. Although the Council seek to apply the more restrictive policies of the old Development Plan showing the appeal site in a "white" area, it must be considered against the more recent and more favourable approved Structure Plan Policies E13 and E14 which the Secretary of State modified, showing that he does not expect planning authorities to take the most stringent view of the environmental issues when considering small businesses in rural areas. This is a fundamental difference and not merely one of emphasis. Policy E14 in particular relates to changes of use in the countryside which will normally be permitted subject to certain provisos. Although the policy refers specifically to buildings, and there are none except the bungalow on this appeal site, it cannot for the purpose of applying the policy in this case be considered in isolation from the adjoining land to the north on which stands a large barn, since the appeal site is in effect part of the same complex. It would be artificial to apply a less restrictive policy to the land to the north because there is a building unit and the more restrictive "white land" policy to the south. Indeed, in 1981 the 2 sites were integrated. Policy E11 of the Chippenham Local Plan (soon to go for public consultation) reflects the Structure Plan policy, and is subject to only 2 provisos which are appropriate to the appeal site, namely that the access and services are satisfactory, and that the proposal shall not detract from the amenities of the locality and the character of the countryside.

11. Your client's use satisfies both of these criteria, and as the Council have not presented a clear case against him under either, the appeal should succeed. Taking the second one first, the visual impact of your client's transport yard, together with the adjoining use and building is a matter for subjective judgement, but the

Council have merely invited inspection of the site and submitted no detailed objections. Their planning committee do not appear to have considered the environmental impact in any comprehensive way. One of the interested persons also appears to doubt whether there is sufficient evidence of detriment to the visual amenities, and in fact the site is only in view to the public at its frontage to Stanton Lane (C172), where all that appears are the roadside fence and the front garden of the bungalow, and from a point on the main A429 road from which it appears as part of an ordinary group of farm buildings with the usual ancillary vehicles. On the site itself there is very rarely anything but trailers and tractors, except 2 covered trailers used for spare parts, and an occasional load on a trailer in transit. Your client also considers that if the notice is upheld, there is little point in reducing the 1.6 m fence to 1 m, since the resultant visual effect might not be an improvement on the scene.

12. Vehicle movements, which in the winter may be as low as 4 a day, do not cause any appreciable disturbance or harm to the residential amenities, even if they are considered together with the movements from the adjoining haulage yard. The residents do not distinguish between them, and do not see any worse effect from one business rather than the other. Only about 6 houses on the edge of Stanton can be affected, since the C172 south from the site is not used, being too narrow, and the residents probably hear more noise from the motorway. If permission is granted there is therefore no need to restrict the number of vehicles at the site below the present total. None of your clients pass through Stanton St Quintin as they have no need to go this way.

13. No evidence on technical grounds has been given to show the highways used are inadequate, and no improvements to any of them are envisaged. They are not below the normal standard of Class C roads in Wiltshire, and of an acceptable standard for your client's vehicles. Up to the junction at Stanton the C172 is wide enough and has recently been re-constructed. From the junction to the A429 the C72 is almost as wide and is used as a bus route. The junction itself presents no difficulties for the long articulated vehicles as visibility is very good and there are curves at the corners. The suggestion that the articulated lorries might cause hazards to motorists turning from west to south at the junction, when going from the appeal site to the A429, by crossing over the centre line when turning is not significant, and is largely imaginary. The vehicles during almost 3 year's operation have never been involved in an accident and those to which the Council refer (save one) are irrelevant because they occurred on the C172 to the south of the site which the staff do not use. The single accident on the C72 did not involve personal injury and it is understood the circumstances were unusual. Also many other large vehicles carrying produce or livestock use this road. The fact that no detailed study of the effect of traffic from the site on the locality has been made and that enforcement action was decided upon before the Highway Authority was consulted, confirms that the objection on traffic grounds is entirely theoretical and shows that the Council would object to any kind of use that generated traffic on the Class C roads.

14. If the notice is upheld the value of the premises will be much reduced, the business will suffer from having to move elsewhere and this will reflect on its standing and goodwill. The 3 local drivers will lose their employment. The Council have failed to discharge their obligation under Circular 22/80 to help your client find a suitable alternative site and have merely suggested the Bumpers Farm industrial estate in Chippenham where the sites are fully developed by buildings for economic reasons, and there is insufficient open space for a haulier to park his vehicles. Although it is now understood some undeveloped plots are available these are for Class X and Class III uses and will therefore be in demand at higher prices than your client can afford.

15. The requirements of the notice are unrealistic as the area of the appeal site is so small that it is not capable of reverting to agricultural use. Requirement No 1 should be modified to allow for a residential or an agricultural use to be carried on if the notice is upheld, and the same applies to Requirement No 2, if No 1 is amended unless it is considered that it has a once and for all application and not a continuing one. Although Requirement 4 is technically correct, on planning merits, very little planning advantage, if any, would be gained by compliance with it.

16. If permission were granted your client would be glad to accept a condition limiting the numbers of vehicles to a figure not greater than those which use the site at present, but it would not be a viable proposition to restrict him to 1 or 2. He would accept reasonable landscaping conditions and a requirement to plant a hedge along the frontage, also one prohibiting open storage. To minimise damage to the verges, he would agree to the highway authority's requirements for a widened access, although this would also require the co-operation of his neighbour Mr Ridout. Another acceptable condition is that the haulage vehicles should be required to turn right when leaving the site, but a personal condition would only be welcomed if permission could not be granted without it.

THE CASE FOR THE PLANNING AUTHORITY

17. The appeal site shares its vehicular access with the property adjoining to the north on which stand a group of agricultural buildings (one especially large), and until recently was in the same ownership and used together with the northern site. South of the appeal site is a bungalow built about 11 years ago. Complaints were first received that Springfield Farm was being used as a haulage depot in early 1981 when the northerly site was still being used together with the appeal site, but since then it has been operated separately from the appeal site and is subject to a separate enforcement notice. No application for planning permission, nor for an Established Use Certificate, has been submitted for any part of this site.

18. The Council appreciate that your client purchased the appeal site in good faith, but if he had inquired about the use of the site from the Council he could have saved himself expense and learned at the beginning of their objections. These are based firstly on the policy contained in the first quinquennial review of the old County Development Plan approved in 1970, showing the site to be within a "white" area in which the policy is that existing uses shall remain for the most part undisturbed and only development essential to the needs of agriculture and forestry shall be approved. This policy is a material consideration and still in effect until superseded by the combined Structure Plan and Local Plan (not yet adopted). If during the period of public consultation the local hauliers persuade the Council to adopt a less restrictive policy towards haulage yards in the countryside, businesses such as your client's might be viewed in a different light, but at present until there is a change in his favour the Council operate under the older policy. Under the structure plan policy there has been some change in emphasis because in certain situations relaxation is permitted but this is of no assistance for your client since his haulage use is well outside the limits of any settlement and therefore contrary to the established policy for development. It also has no connection with agriculture or forestry.

19. Because of its rural location the haulage depot is incongruous and detrimental to the character and general amenities of the surroundings. One has only to visit the site for this to be self-evident, and to appreciate that however well conducted the business it detracts from the countryside because of its essential characteristics and the large vehicle movements it generates. Also the timber fence along the roadside is a hard alien feature in an area where the highway boundary is generally defined by mature hedgerows. The early and late arrivals and departures of vehicles,

sometimes at weekends, also adversely affect the amenities of dwellings along the routes leading to the site, particularly in the one between it and the motorway junction. This is a feature of a haulage business which it is impracticable to control by means of a condition. Complaints supporting these objections arising from the impact of the haulage use on the surroundings were the reasons for the Council serving the enforcement notice.

20. There are also objections on account of hazards caused to road users. The site is accessible both from the north and the south from Chippenham, but whilst the latter route is shorter by one mile, it is along a very narrow section of the Cl72 with a 2½ or 3 m carriageway and unsatisfactory visibility in many places. This route is absolutely unsuitable for heavy vehicles, which can cause hazards to local residents who often use Stanton Lane for a country walk. On the outskirts of Kington St Michael where the Cl72 joins the Cl54 the junction is inadequate for large vehicles which have to pass close to the wall on its south-east side when turning towards Chippenham. The Cl54 in Kington is a bus route and forms the main village street where there is much on-street parking. At the south end of the village a bend with restricted visibility is a hazard to drivers and properties alike. Although it might not be practicable for a lorry with trailer to negotiate this road, it is quite possible tractor units without trailers use it and these are some 2.4 m wide. Travelling north from the site the 'T' junction at Stanton St Quintin is unsuitable for long vehicles which have to cross into the wrong lane to turn into or out of the C72. The carriageway of this road from the junction to the C429 is mostly only 5 m wide with narrow verges, and a bend with restricted visibility so that large vehicles cannot pass each other easily. All other routes leading to the site are via Class C roads, not designed for and inadequate and unsuitable to accommodate lorry traffic satisfactorily.

21. At the site the access (shared with the plot to the north) is not wide enough for articulated vehicles to enter or leave in both directions without damaging the grass verges by over-running and if permission were granted it would have to be widened to eliminate this.

22. During the 3 year period ending 31 May 1983, 13 accidents were reported to the Police on roads leading to the site. All involved vehicles travelling in opposite directions meeting on roads with only narrow width available. Eight were in Kington St Michael (Cl54), 4 along the Cl72 and one in the C72. A haulage depot which generates lorry traffic using the roads on which such accidents have occurred is detrimental to the safety of all other road users. The suggestion that an order be made restricting the weight of vehicles using the Cl72 and Cl54 is unlikely to be acceptable to the Highway Authority because of the numbers of such requests and the difficulty of enforcing the orders.

23. Before serving the notice the advice in Circular 22/80 about small businesses was taken into account. However the Council consider the use is an unacceptable intrusion in open countryside detrimental to the rural amenity, causing disturbance to local residents and resulting in large vehicles using narrow country roads. Therefore notwithstanding the passages relating to small businesses in the circular, the objections are so great that permission ought not to be granted. The Council's suggestion, in response also to the Circular, that a site at Bumpers Farm Industrial Estate is an adequate discharge of their responsibilities, since this is an appropriate location and undeveloped land is available for the applicants to use as they wish. Another large haulage contractor is there already and negotiations for a plot are being made by another.

24. If the notice is upheld the requirements are neither unreasonable nor excessive to remedy the breaches of control. Firstly they ensure that the unauthorized and unacceptable activities and structures are removed. It is appreciated that if they

are retained the use of the site will revert to a very small smallholding of a paddock and bungalow, though it might require planning permission for the bungalow to be used for ordinary residential purposes.

25. If the notice is quashed and planning permission granted it should be subject to the conditions suggested by your client, though it is not thought appropriate for a personal condition to be imposed, as there are no special reasons why your client rather than any other person should use the site, if permission is to be granted. The haulage use however should be restricted to the parking of vehicles only (no maintenance or repairs) and if feasible a condition should be imposed to prevent heavy vehicles turning left out of the site.

CONCLUSIONS

26. Under ground (a), it seems to me that the main points which I have to consider in reaching a decision are whether your client's business is appropriate and acceptable under the relevant Development Plan policies, and what impact the development itself has upon the surroundings and upon highway safety. As requested at the inquiry I have deferred issuing my decision until in a position to give one on the appeal relating to the adjoining site, in the interests of consistency and impartiality. Both appeals however have been considered on their respective merits.

27. While the policies in the approved Structure Plan and draft Local Plan to which you have referred afford greater flexibility in development control than the "white land" policy operated under the old style Development Plan, I do not see them as giving positive support to your client's case. This is because the use at the appeal site is located in the open and cannot fulfil the requirements under the policies which relate to the use of buildings in the countryside or on the fringe of a village. You have argued that it would be unreasonable to apply the policies more strictly to your business than to the adjoining site with its buildings, as both sites used to be part of the same farm complex, but in determining your appeal I can only take account of land which is under your client's control, and there are no buildings of substance other than the bungalow at the appeal site.

28. In my view the existence in particular of the large agricultural type building on the adjoining site is one of the material differences between the 2 appeals, since the land which you use for your haulage depot is only partly screened by the fence along the highway frontage and is especially prominent when viewed from the motorway and highway to the east. The large brightly-coloured container bodies of articulated vehicles detract from the rear of open farmland and intrude visually into the countryside, to a greater extent than occurs in the business on the adjoining land. Similarly in these surroundings a fence of the type erected is intrusive and out of character with the rural scene.

29. The use of part of the dwelling as an office in connection with the business is also open to objection as it contributes to the general activity of the yard, and detracts from the residential amenities of the bungalow. The use only exists because of the business and in planning terms is unacceptable in an isolated position in the countryside away from any settlement.

30. As regards highway considerations, if the number of vehicle movements were restricted to their present level, I should not consider them to be excessive and likely to cause undue hazards, on the basis that the large articulated vehicles would not turn left out of the site down a narrow road because of the impracticability of this route. But because the tractors might well use this route to your clients in Chippenham, there would be an added risk to pedestrians using the road.

31. Taking the development as a whole, the visual impact and general effect of a general haulage depot on the open character of this part of the countryside are too detrimental for the use to be permitted to continue. Notwithstanding the advice in Circular No 22 of 1980, in relation to small businesses, I consider the planning objections are too strong in this instance for permission to be granted. The appeal therefore fails on ground a.

32. Under ground g. I agree that the requirements of the notice are excessive in that they would deprive any occupier of the bungalow at the appeal site of the right to keep or repair a motor vehicle on the site for domestic purposes and shall amend them as necessary to take this into account. The requirement relating to the fence is appropriate. Your client did not appeal under ground h. but I have considered whether the period for compliance is reasonable. I appreciate his difficulty in finding alternative premises but in the circumstances 12 months should be sufficient for the requirements of the notice to be fulfilled and I do not propose to vary this period given in the notice. I have taken into account all the other matters raised at the inquiry, but do not find them to be sufficient to affect my conclusions.

FORMAL DECISION

33. For the above reasons I hereby direct that the notice be varied by the addition of the words "or residential" after the words "the agricultural" where they occur in sub paragraphs i. and ii. of Schedule 3 to the notice. Subject to this variation I dismiss your client's appeal, uphold the notice and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Act.

RIGHT OF APPEAL

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

I am Gentlemen
Your obedient Servant



A H Y CLAYTON MA(Oxon)
Inspector

APPEARANCES

FOR THE APPELLANT

Mr R C Begg

- Solicitor, Messrs Lawrence and Co, Solicitors, Shannon Court, Corn Street, Bristol BS99 7JZ.

He called:

Mr R J Sheehan

- Appellant.

FOR THE PLANNING AUTHORITY

Mr J F McDonald

- Principal Administrative Officer, North Wiltshire District Council.

He called:

Mr L Prebble MRTPI DipPlanning

- Principal Planning Officer, North Wiltshire District Council.

Mr T P Geering

- Assistant Engineer, Planning Liaison Section, Highways Department, Wiltshire County Council.

INTERESTED PERSONS

nil

DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- Document 2 - Notice of inquiry to nearby residents.
- Document 3 - Letter from Messrs Loveday and Loveday, Estate Agents, dated 9 September 1980.
- Document 4 - Written Statement Draft Chippenham Local Plan (in folder).
- Document 5 - Letter from the Council for the Protection of Rural England dated 6 October 1983.
- Document 6 - Letter from the occupier "Threeways", Stanton St Quintin dated 9 October 1983.

DOCUMENTS (CONT'D)

Document 7 - Letter from the occupier "Charnbury", 6 Bouverie Park, Stanton St Quintin, undated.

PLANS

Plan A - 1/2500 Plan accompanying Enforcement Notice.

Plan B - $2\frac{1}{2}$ "=1 mile Class 'C' roads in vicinity of appeal site.

Plan C - 1/10,000 Location of accidents reported on C72, C154 and C172.