

NORTH WILTSHIRE DISTRICT COUNCIL

ENFORCEMENT REGISTER

INFORMATION SHEET

E/311

APPEAL

yes

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Plan's Ref N/82/1396/ENF

ADDRESS

VERITY HOUSE,
GOATACRE LANE,
GOATACRE,
HILMARTON

BREACH of CONTROL

Issuing Authority N. W. D. C.

Date Issued 16-8-82

STOP NOTICES

Date Served

Requiring



Date(s) served

Takes effect 27-9-82

Compliance by 27-11-82

Dates Extended by
Secretary of State

Date withdrawn

Appeal dismissed

Steps required to be taken

- (i) To secure the discontinuance of the use of the said land in connection with the operation of a taxi and private hire business.
- (ii) To secure the discontinuance of the use of the said land for the parking, storage and maintenance of motor vehicles used in connection with the operation of a taxi and private hire business which uses are unconnected with the use of the said land as a private dwellinghouse.
- (iii) To secure the removal of all motor vehicles brought onto the said land for purposes unconnected with the use of the said land as a private dwellinghouse.

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

The making of a material change in the use of the said land from a use solely as a private dwellinghouse by the addition to the existing residential use of uses connected with the operation of a taxi and private hire business together with the parking, storage and maintenance of the motor vehicles associated therewith which uses are unconnected with the use of the said land as a private dwellinghouse.



Department of the Environment and
Department of Transport

Common Services

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Direct line 0272-218914

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Council ref: AD/DA/497

Mrs. J. Daryl

E 311

N/82/1396/ENF

Vines and Lipscombe Design Group
127a High Street
WOOTTON BASSETT
SN4 7AY

Your reference

VV/DS/82/99

Our reference

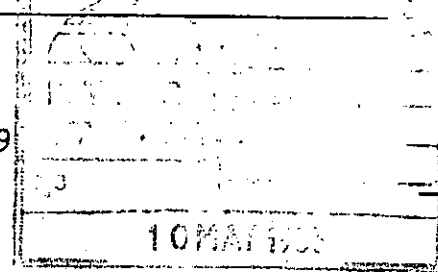
T/APP/5408/C/82/2361/PE2

Date

4 MAY 1983

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEAL BY MR A R POULTON
LAND AND BUILDINGS AT VERITY HOUSE, GOATACRE LANE, GOATACRE



1. I refer to this appeal, which I have been appointed to determine, against an enforcement notice issued on 16 August 1982 by North Wiltshire District Council concerning the above mentioned land and buildings. I have considered all the representations made by you and by the Council, and also those of an interested person. I inspected the site on 18 April 1983.
2.
 - a. The breach of planning control alleged is the making of a material change in the use of the land from a use solely as a private dwellinghouse by the addition to the existing residential use of uses connected with the operation of a taxi and private hire business together with the parking, storage and maintenance of the motor vehicles associated therewith which uses are unconnected with the use of the said land as a private dwellinghouse.
 - b. The requirements are:
 - i. to secure the discontinuance of the use of the said land in connection with the operation of a taxi and private hire business;
 - ii. to secure the discontinuance of the use of the said land for the parking, storage and maintenance of motor vehicles used in connection with the operation of a taxi and private hire business which uses are unconnected with the use of the said land as a private dwellinghouse;
 - iii. to secure the removal of all motor vehicles brought on to the said land for purposes unconnected with the use of the said land as a private dwellinghouse.
 - c. The period for compliance is 2 months.
 - d. The appeal was made on grounds 88(2)(a), (b), (c), (g) and (h).
3. In summary, the notice is being upheld and planning permission is not being granted. More time to comply is being allowed.

Grounds (b) and (c)

4. The relevant facts are that your client and his son have 2 taxis which operate from Hackney Carriage ranks in the main towns in the area during working hours. Two taxis have been seen at the appeal site on a number of occasions, together with a minibus. The minibus is said to be no longer part of your client's fleet, which now consists of only 2 vehicles, although a minibus said to be your client's private vehicle was parked in front of the house at my inspection. The taxis are serviced on the appeal site. The use began in July 1980. In April 1982 your client obtained 2 Hackney Carriage Licences.

5. On behalf of your client you say that the degree of commercial activity on the appeal site is such that it can only be considered as a minor use, insufficient in substance to be regarded, for planning purposes as a use. You cite certain cases in which it was held on appeal that the degree of car hire and taxi use was to be de minimis. On ground (c) you say that if it is accepted that the degree of use is insufficient to amount to development, the breach of planning control has not taken place.

6. The Council say that an officer visited the site on 3 occasions before the notice was issued. On the first occasion an Austin Maxi and a Ford minibus had windscreen stickers indicating that they were part of a taxi service. On the second occasion there were 5 vehicles at the site, 3 of which had taxi windscreen stickers. On the last occasion 5 vehicles were again seen, the same 3 having windscreen stickers. They consider on this evidence that a material change of use has taken place.

7. I conclude that although your client operates from taxi ranks in nearby towns, on a balance of probability he has been operating the taxi and private hire business from the appeal site. The number of vehicles involved is clearly more than de minimis - bearing in mind also the limited space available on site. Maintenance and storage, ancillary to the main use have also taken place. This is a material change from the residential use of the property, and the appeal fails on grounds (b) and (c).

Grounds (a), (g) and (h)

8. Turning to ground (a), it may well be that having obtained a Hackney Carriage Licence your client and his son operate more from ranks in towns than from the premises, which they may now use more for storage, parking and maintenance than as a base from which to ply for hire. Nevertheless, these are very small premises in a very narrow lane from which to operate taxis. Although the occupant of the house which shares the drive may not have complained it seems to me that such a use could be a source of serious and justifiable objection. It is not possible to exercise control over the use satisfactorily by means of conditions, as suggested in Circular 22/80 to which you refer. It would not be possible to enforce restricted operating hours, in order to prevent disturbance at night. The number of vehicles operating could not be satisfactorily limited because of the difficulty of distinguishing between vehicles for hire and private vehicles. Although servicing a taxi is much like servicing a private car, the existence of the taxi business is likely to increase the amount of servicing taking place, since both private cars and taxis may be serviced, and add to possible nuisance. Lastly the number of vehicles using the lane will be increased beyond that required for the needs of residents, which, in such a lane, is undesirable. The appeal therefore fails on ground (a).

9. Your client's case on ground (g) appears to be that since the degree of commercial activity is so small as not to be a nuisance (which I do not accept), the requirements of the notice are excessive. I do not agree: it is difficult to see that any reduced requirement would meet the objections to the use.

10. On ground (h) you stress the personal circumstances of your client and his son, and I recognise that every reasonable effort should be made to ensure that they can remain in business. You have not specified how much extra time would be needed to enable them to make other arrangements. In my opinion 6 months should be reasonable, and I am sure that they will be helped as far as possible by the Council to relocate, in accordance with the advice of Circular 22/80. I have also considered all the other matters raised in the written representations, but can see no reason to reach any other decision.

FORMAL DECISION

11. In exercise of the powers transferred to me and for the reasons given above I hereby direct that the period for compliance with the notice be varied by substituting in the paragraph beginning "NOTICE IS HEREBY GIVEN" the word "six" for the word "two". Subject to this variation I dismiss this 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 of 1971 as amended.

RIGHT OF APPEAL

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

I am Gentlemen
Your obedient Servant



E D CREW CB DSO DFC MA FRAeS
Inspector

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