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Your Reference
PCM/clg
Our Reference
T/APP/C/91/J3910/606914
T/APP/J3910/A/91/179605
T/APP/J3910/A/91/180632
Council Reference
N/91/0625/AD/1488
N/90/1803/AD/1487
N/90/1666/OL/AD/1494
Date

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 174 AND 78 AND SCHEDULE 6
APPEALS BY TOUGHMUR T LTD
LAND AND BUILDINGS AT WEST MILL FARM, WEST MILL LANE, CRICKLADE, WILTS

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. These appeals are against an enforcement notice issued by the North Wiltshire District Council and against 2 refusals of planning permission by that Council concerning the above mentioned land and buildings. I have considered the written representations made by you and by the Council and also those made by the Cricklade Town Council, the Council for the Protection of Rural England and other interested persons. I inspected the site on 8 October 1991.

2. a. The date of the notice is 16 November 1990.

b. The breach of planning control alleged in the notice is the making of a material change of use from agricultural use to a combination of uses involving that use together with (1) a use involving the parking and storage of motor vehicles and trailers, and (2) a use involving the storage of waste materials, waste paper, materials and items for recycling, office furniture and other items of furniture.

c. The requirements of the notice are:

1. To cease the combination of uses involving:

a. the parking and storage of motor vehicles and trailers; and

b. the storage of waste materials, waste paper, materials and items for recycling, office furniture and other items of furniture.

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RECYCLED PAPER

2. To remove from the site:
 - a. the motor vehicles and trailers; and
 - b. the waste materials, waste paper, materials and items for recycling, office furniture and other items of furniture.
- d. The period for compliance with the notice is 6 months.
- e. The appeal was made on the grounds set out in Sections 174(2)(a) and (d) of the 1990 Act.
3. The developments for which planning permission was refused are:
 - a. the use of a building for motor vehicle repairs (Appeal T/APP/J3910/A/91/179605); and
 - b. outline application for a dwelling (Appeal T/APP/J3910/A/91/180632).
4. Since the use of the appeal site for car repairs had commenced prior to the application for planning permission for that use it must be regarded as an application to retain that use, under Section 32 of the Town and Country Planning Act 1971, now Section 63 of the 1990 Act, and I propose to determine the appeal on that basis.
5. Two of the appeal sites are part of West Mill Farm and the third is on land adjoining the farm which lies in a rural area to the north-west of Cricklade at the end of the narrow West Mill Lane. The lane separates the residential edge of the village on its east side from the open agricultural land and countryside to the west. There is no farmhouse and the main part of the yard is divided into 2 parts. The northern part contains several old concrete block and corrugated iron buildings to which the cattle grazing the adjoining field have access. The southern part contains a barn full of hay, a stack of hay bales under polythene sheeting, the appeal building which has been used for car repair, as well as an old ambulance, a small lorry loaded with scrap metal, a horse box, a few skips and a large quantity of scrap miscellaneous items including rubbish in black polythene sacks. To the east, in a separate enclosure, is another large barn containing stacked black polythene bags which appear to contain waste material. The River Thames runs to the north with open land beyond and there is open land around the farm to the west.

Enforcement Appeal (T/APP/C/91/J3910/606914)

Appeal under ground (d)

6. The basis of an appeal on this ground is that, in a case to which Section 172(4) of the 1990 Act applies, a notice was not issued within 4 years of the breach of control. However where the breach arises from a change of use of land or buildings as in this instance the 4 year rule does not apply. The appeal on ground (d) fails.

Appeal on ground (a) and also Planning Appeal T/APP/J3910/A/91/179605

7. From my inspection of the site and the surrounding area and from the written representations I consider that the main issues in both

these appeals are the same and that the appeals may therefore be considered together. Those issues are first, the effect of the uses of the land and buildings on the character and appearance of the area, having regard to relevant planning policies, and second, the suitability of the access to the site.

8. It is generally agreed that relevant planning policy is contained in Policy E11 of the approved North East Wiltshire Structure Plan which is reflected in the adopted Cricklade and Purton Local Plan as well as in the Draft North Wiltshire Local Plan. The latter is however at an early stage in the statutory process towards adoption and as yet can be given little weight on its own. The policy provides that, in the countryside, the change of use of buildings to use for employment purposes will normally be allowed where access and services are satisfactory, the scale and design of the buildings are compatible with the local environment and where the development will not detract from the amenities of the locality and the character of the countryside. A similar policy, E12, applies to edge-of-village locations. Government policies spelled out in PPG4, PPG7 and DOE Circular 22/80 have also been identified.

9. The appeals relate to buildings and the immediately adjacent land outside the built-up area of Cricklade. The sites are thus at the edge of, but within, open agricultural land in the countryside where I consider uses for car repairs and for the storage of vehicles and waste materials to be quite inappropriate. Those uses have a harmful impact on the rural character of the area round about because of the noise and smells likely to arise from car repairs, whether they be mechanical or body repairs, and from the traffic those uses generate. Furthermore the untidy appearance of the premises, littered as they are with scrapped and waste materials of all kinds including countless filled polythene sacks, has a most harmful effect on the appearance of the land from West Mill Lane and the adjoining footpath which is part of the proposed Thames Long Distance Footpath route. The intrusion into open countryside, the visual and other effects are all sound reasons against the grant of planning permission.

10. Attention has been drawn to the Government's guidance and policy for the re-use of redundant buildings. Part of the farm is still used for agricultural purposes in that roughly a half of the yard with the buildings in it is used to site fodder racks and to provide shelter for cattle grazing the farmland. No evidence has been submitted to show why it is claimed that the remainder of the site, with its buildings, is redundant for agricultural purposes. However even on the assumption that the appeal buildings are redundant for agriculture their use for the purposes identified in the appeals is harmful to the rural area and therefore conflicts with both Policies E11 and E12 of the Structure Plan and with Government guidance, for the reasons given above.

11. In support of the appeal relating to car repairs it is pointed out that that use has been carried on for some years in the building and that the Council refrained from taking earlier enforcement action in view of the low level of activity. It is argued that planning permission should be granted subject to conditions to continue to restrict the level of activity and noise and to require screening. I do not consider it feasible to control by planning condition the level of activity at the site, that is the throughput of cars, nor the nature and extent of traffic attending it. Furthermore screening

would not reduce the intrusion into the countryside and the extent of screening likely to be necessary would, in my view, itself detract from the rural character of the area.

12. The access to the site at the end of West Mill Lane is narrow with no footways and generally of insufficient width for 2 vehicles to pass except by using private gateways. While it has been suggested that a turning area could be provided at the end of the lane, which would have some benefit for local traffic if it was available for public use, it would not overcome the likely need for a reversing manoeuvre when 2 vehicles meet in the lane. Such manoeuvring, especially by vehicles larger than a car, would increase the danger to pedestrians using the lane and to vehicles emerging from gateways. Some of the dwellings stand close to the lane and would certainly suffer increased noise and fumes from a greater number of vehicles.

13. In my view the access to the appeal sites is unsuitable for these reasons and together with the other reasons set out above leads me to the conclusion that planning permission should not be granted for either of the uses. The appeal on ground (a), against the enforcement notice, and the planning appeal both fail.

Planning Appeal (T/APP/J3910/A/91/180632)

14. From my inspection of the site and the surrounding area and from the written representations I consider that the main issue in this appeal is the likely effect of the erection of a dwellinghouse on the character and appearance of the surrounding area having regard to relevant planning policies. The site lies in open farmland on the west side of West Mill Lane. It is to the south of the buildings and land to which the other 2 appeals dealt with above relate. It is outside the limit of Cricklade defined in the adopted Cricklade and Purton Local Plan. Policy H19 of the approved North East Wiltshire Structure Plan and Policy H6 of the Local Plan oppose new dwellings in the countryside unless justified by the needs of agriculture or forestry. The new Draft Local Plan proposes the extension of the defined limit of Cricklade to include some land on the west side of the lane but the plan is as yet in the early stages of its preparation and can be given little weight. However the appeal site is outside that area and is a location where no development is at present contemplated.

15. No agricultural or other appropriate need has been demonstrated in support of the appeal and I find therefore that the proposed development conflicts with planning policies for the site. Furthermore residential development in West Mill Lane in the northern no through road section to which the site would have access is concentrated on the east side of the lane with only one dwelling on the west side at some distance to the south of the appeal site. A dwelling at this point would change the character of the open farmland by intensifying residential development on that side of the lane. Being isolated it would also be extremely conspicuous and obtrusive in the surrounding open farmland, and its site would impinge upon a bridleway which, whatever its present extent of usage, is to form part of the proposed route of the Thames Long Distance Footpath. A further dwelling would also contribute to the traffic using a part of the lane which is narrow, mostly unlit and without pavements. The risk to vehicle and pedestrian safety in the lane would be increased although I do not consider that such risk would be sufficient on its own to

justify a refusal of planning permission. However I do consider that the proposed development of this open site is not acceptable in view of the serious impact it would have on both the character and appearance of the area. The appeal therefore fails.

Other Considerations

16. I have considered all other matters raised in the representations but they are insufficient to outweigh those considerations which have led to my decisions.

FORMAL DECISION

17. For the above reasons, and in exercise of the powers transferred to me, I hereby determine your client's appeals as follows:

a. Appeal reference T/APP/C/91/J3910/606914

I dismiss the appeal and uphold the notice.

b. Appeal reference T/APP/J3910/A/91/179605

I dismiss the appeal.

c. Appeal reference T/APP/J3910/A/91/180632

I dismiss the appeal.

RIGHTS OF APPEAL AGAINST THE DECISIONS

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

I am Sir
Your obedient Servant



ALAN G BENNETT
Inspector

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