

ENFORCEMENT REGISTER INFORMATION SHEET

E/320

APPEAL

yes

no

Plan's Ref N/83/0182/04

ADDRESS

2 The Green,
Lydiard Millicent

BREACH of CONTROL

Issuing Authority N.W.D. C.

Date Issued 11-11-82

STOP NOTICES

Date Served

Requiring



Date(s) served

Takes effect 1-1-83

Compliance by 1-3-83

Dates Extended by
Secretary of State

Variation 4.7.83
appeal dismissed

Date withdrawn

Steps required to be taken

- (i) To secure discontinuance of the use of the land as a workshop and for the storage of timber for purposes connected with the business of a building contractor which purposes are unconnected with the residential and agricultural use of the said land
- (ii) To secure the removal of all of the timber, machinery and equipment brought on to the land in connection with the business of a building contractor for purposes unconnected with the residential and agricultural use of the said land.

EXTENT to WHICH NOTICE COMPLIED WITH

Alleged breach of planning control

By the making of a material change in the use of the land by the addition to the existing residential and agricultural use, of a use for the purposes of a workshop, and for the storage of timber in connection with the business of a building contractor.

53.

25/10/82
E320
RESOLVED that in respect of the change of use of buildings and land formerly a poultry farm to workshop and storage connected with a building sub-contractor's business, at The Croft, 2 The Green, LYDIARD MILLICENT, authority be granted for the service of an enforcement notice under Section 87 of the Town and Country Planning Act 1971 requiring the cessation of the use of the buildings and land in connection with the building contractor's business and removal of all materials connected therewith from the buildings and land, within two months of the date of the notice becoming effective and that the Solicitor be authorised to take any subsequent proceedings or action should the notice not be complied with.

Reasons:

1. The development introduces a commercial/industrial activity into an area where it is the policy of the local planning authority that essential uses shall remain for the most part undisturbed and only development essential to agricultural need shall normally be approved.

2. The development is contrary to the policies contained in the North East Wiltshire Structure Plan and the Cricklade and Purton District Plan which provides for the change of use of buildings in the countryside for employment purposes only where:-

(a) access and services are satisfactory;

(b) the scale and design of the buildings are compatible with the local environment; and

(c) the proposal will not detract from the amenities of the locality and character of the countryside.

3. The development by reason of activities involved and visual intrusion together with associated traffic movements of vehicles to and from the site would be seriously detrimental to the amenities and environment of nearby residential properties.

The development has a detrimental effect on the character and appearance of this area in particular and rural amenity in general and would set a precedent for further similar undesirable forms of development.

Mrs. J. Daryl

Department of the Environment and
Department of Transport

N/83/0182/ENF

E320-



Common Services

Room 1411 Tollgate House Houlton Street Bristol BS2 9 DJ

Telex 449321

Direct line 0272-218914

Switchboard 0272-218811

Council Reference AD/DA/510

Messrs Vines and Lipscombe
Design Group
127A High Street
Wootton Bassett
NEAR SWINDON
Wilts SN4 7AY

Your reference
VV/DS/82/149

Our reference
T/APP/5403/C/82/3414-3416/PE2
Date

- 4 JUL 1983

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
APPEALS BY MESSRS R AND J R AND MRS M W STUBBS
LAND AND BUILDINGS AT THE CROFT, 2 THE GREEN, LYDIARD MILLICENT, WILTSHIRE

1. I refer to the appeal, which I have been appointed to determine, against an enforcement notice served by the North Wiltshire District Council concerning the above mentioned land and buildings. I have considered all the representations made by you and by the Council. I inspected the site on 15 June 1983.

2. a. The date of the notice is 11 November 1982.

b. The breach of planning control alleged in the notice is that, after the end of 1963, the land situate at Grid Reference SU 083860 and known as The Croft, 2 The Green, Lydiard Millicent in the County of Wiltshire, which is more particularly delineated on the plan attached to the notice and thereon edged red, has been developed by the making of a material change in the use of the land by the addition to the existing residential and agricultural use of a use for the purpose of a workshop and for the storage of timber in connection with the business of a building contractor, without the grant of planning permission required for that development.

c. The requirements of the notice are:-

i. To secure discontinuance of the use of the land as a workshop and for the storage of timber for purposes connected with the business of a building contractor which purposes are unconnected with the residential and agricultural use of the said land.

ii. To secure the removal of all of the timber, machinery and equipment brought on to the land in connection with the business of a building contractor for purposes unconnected with the residential and agricultural use of the said land.

d. The period for compliance with the notice is 2 months.

e. The appeal was made on grounds 88(2)(a), (g) and (h).

3. On my site visit Mr R Stubbs informed me that his business was that of a form-work making contractor. I consider therefore that the description of the business stated in the notice as "building contractor" is too imprecise. This defect, however, is not material as it is clear that your clients have not been misled as

to the meaning of the notice. The necessary variation to the notice can be made without injustice to either party under the provisions of Section 88A(2) of the Amended Act and I will do this.

4. The appeal site comprises a dwelling, 2 The Croft, this dwelling's garden curtilage and an area of land which lies behind No 2 and to the north-east. The site adjoins the curtilages of Nos 4, 5 and 9, dwellings with curtilages which, as is the case with No 2, front the north side of the road at Lydiard Green. This settlement lies about $\frac{3}{4}$ of a mile to the west of the central part of the village of Lydiard Millicent in the midst of open countryside.

5. The ground on the site slopes slightly upwards to the east so that the eastern part of the site is noticeably higher than the land at its western boundary. The site's north boundary adjoins a field and is unscreened except for the high hedge, about 30 yds long, which marks the eastern part of this boundary. The site's south-east facing boundary is marked by a mixture of 6 ft high wood panel fencing and hedgerows. There are several trees growing in the high hedge at the north end of this boundary. The west boundary adjoins the east side of a 2 storey dwelling 'Radway Close'. This boundary is part evergreen hedge, about 7 ft 6 ins high, and part 5 ft 6 ins high wood panel fencing.

6. At the rear of No 2 there is a domestic garage. To the north-east of this building there is a wooden building, a former chicken house, measuring 18 ft by 60 ft. This building is used partly as an office and partly as a domestic store. To the east of this building there are 2 more former chicken houses, each 32 ft by 78 ft. One is used as a store but I was informed that the many electrical parts I saw in this building belonged to a previous occupier and not to the appellants. The third building is used as a workshop and equipped with 2 circular saws, one 11 in and one 12 in. Here I saw some pieces of formwork. There was also a grinder and band-saw. Another circular saw, I was informed, is movable and is used on work sites. A stock of timber is also kept in this building. A Portakabin is positioned on the land between the smaller and the westernmost of the 2 large former chicken houses.

7. From the north-east corner of the easternmost of the 3 former chicken houses on the site to a point on the site's north boundary there is a 6 ft high wood panel fence in which 2 panels form a double-doored gateway. This fence hides the north-eastern, higher part of the site from the lower ground to the west.

8. On the east side of this fence and the east side of the northern former chicken house, there is a yard. This is used to store formwork, shuttering, metal supports, metal pipes and props. There is also an old dumper vehicle, some tiles, oil drums and an oil fuel tank, (not used). An earth bank, about 7 ft high, has been erected along the west side of the hedge on the yard's east boundary.

9. The access to the site from the road lies at its south-east corner. Here there is a 14 ft wide gateway set back about 20 ft from the carriageway of the road. From the mid-point of this access, which is concrete surfaced, 7 ft back from the near edge of the carriageway, the visibility distance obtainable along the road to the west is 42 ft, visibility being limited by the roadside hedge at the end of 'Radway Close's' front garden. The visibility distance obtainable to the east is 292 ft, as far as a bend in the road. The carriageway of the road opposite this access is 19 ft wide. A new vehicular access has been constructed opposite the access to the site to serve a property being built on the land on the south side of the road. I was informed on my visit that part of the hedge and land on the east side of the access opposite the site is to be removed as part of the development on the adjoining land.

10. I noted on my visit that all the land between No 2 and its garage and the site's west boundary has been surfaced with concrete as has the land lying between the north end of the 3 chicken houses and the site's north boundary. The access can be overlooked indirectly but at very close quarters from upper floor windows at the rear of Radway Close.

11. Having seen the site and its surroundings it seems to me that the principal points at issue in this case are first, whether the continuation of the existing use of the site would detract significantly from the enjoyment of dwellings located in the immediate vicinity of the site and spoil the rural character of the area in which these dwellings are located, and, second, whether the site's access is satisfactory from a road safety point of view.

12. It is claimed on behalf of your clients that the appeal site should be considered as being within or on the edge of Lydiard Millicent and therefore in an area where, under Policy E3 of the Cricklade and Purton District Plan, the establishment or expansion of small scale employment in existing premises, or on new sites, will normally be permitted unless there is some overriding objection. I have to say that, as the site lies well outside the limits of Lydiard Millicent as these are defined on the inset on the District Plan Proposals Map, I cannot accept this assertion. Rather I consider that Policy E4 is relevant and I have noted that this policy reflects that given in Policy E11 of the North East Wiltshire Structure Plan. Nevertheless I accept that the limits of the appeal site fall within the existing limits of the settlement at Lydiard Green and, when viewed from higher ground to the west and north, the existing buildings on the site are seen as part of a group of dwellings in the countryside.

13. As to the first issue, bearing in mind the extent of the appeal site, (it has a maximum depth of about 190 ft and a maximum width of about 300 ft), and the number of large buildings on it, I take the view that the unrestricted use of this large site for industrial purposes could bring about a radical alteration to the essentially quiet rural atmosphere and character of the settlement at Lydiard Green, which occupiers of the group of dwellings there might reasonably expect to be able to enjoy, and therefore, in principle, its use for industrial purposes would be inappropriate.

14. Although the use of the agricultural buildings on the site for keeping chickens must have created some vehicular movement and possibly a smell nuisance, that kind of agricultural activity has to be tolerated by those who choose to live in the countryside.

15. The noise created by your clients' sawing of wood by means of the small saws in the buildings on the site might not be unacceptably detrimental to local residents' enjoyment of their dwellings, subject to certain Conditions, but the number of load carrying commercial vehicles moving to and from the site cannot be controlled. In my opinion this movement, together with the loading and unloading of large pieces of shuttering, formwork or metal supports, in the large yard on the site which is located close to dwellings, must be considered detrimental to local residential amenity, even if the yard is well screened, as in this case, from the direction of these dwellings. I am in no doubt too that the residential enjoyment of 'Radway Close' must be affected seriously by the sight and sound of the passage of load carrying commercial vehicles very close to this dwelling and the disturbance caused by vehicles negotiating the site's access. Although the occupants of this dwelling may not object to the site's present use, this might well not be the case if the occupants of this dwelling change. I realise that your clients, at present, do not use all the buildings on the site in connection with their business, but I consider that this is not a sound planning reason for permitting the change of use of this sizable area of land and buildings to industrial use.

16. I accept that the planting of a screen along the open part of the site's north boundary would further help to hide the site, but as the site is generally well screened except from the north, and does not intrude into open countryside I do not consider that the visual impact made by the actual use of the land on the site is a material factor in the consideration of this appeal.

17. As to the second issue, I am firmly of the opinion that the very limited visibility distance obtainable to the west from the access to the site constitutes a material objection to the proposed development. The road passing this access is not wide and traffic approaching from the west, I noted on my visit, appears to move quite fast, notwithstanding the proximity of the bend to the east of the access. I take the view that the manoeuvring of large vehicles into or out of this access must be kept to a minimum in the interests of local road safety. I do not think that any lowering of the hedge or road widening operations on the south side of the road, opposite the access, would lessen the inherent traffic hazard created by large vehicles entering or leaving this access. The visibility distance available eastwards from the access is also substandard, as there is a significant bend at the point where visibility in this direction stops, and this fact too reinforces my opinion that the access to the site is inadequate to serve industrial premises. I saw on my visit that it is not possible for visibility to the west to be improved as the view in that direction from the access is obstructed by the hedge at the south end of 'Radway Close's' curtilage.

18. I am very conscious at a time of national economic stress, that it is Government policy to create a climate in which small businesses can prosper, guidance given in DOE Circular 22/80. In this case, however, where there is no evidence that there is any compelling local need for the proposed development to be located on this particular site, or of any shortage of land available for industrial use in the general area of Swindon, and because of the other material objections, I find that there is no justification for overriding the Council's decision. The appeal on ground (a) therefore fails.

19. As to the appeals on grounds (g) and (h), I consider the requirements of the notice are not excessive to remedy the breach of planning control. In view of the time required to locate and acquire an alternative site and to relocate your clients' business, I consider that the period specified for compliance is unreasonably short. A period of 6 months would be more appropriate. I will vary the notice accordingly. The appeal on ground (g) fails and that on ground (h) succeeds.

20. I have reviewed all the other matters mentioned in the written representations but these do not alter my decision.

FORMAL DECISION

21. In exercise of the powers transferred to me, I hereby direct that:-

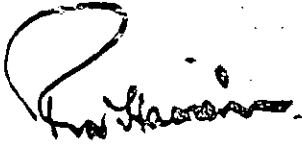
a. In Schedules 2 and 3 of the notice, the words 'building contractor' be deleted and the words 'formwork making contractor' be substituted.

b. The words 'two months' in the penultimate paragraph of the notice be deleted and the words 'six months' be substituted.

Subject to the above variations, I hereby dismiss the appeal, uphold the notice, and refuse to grant planning permission for the application deemed to have been made under Section 88B(3) of the Amended Act.

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

I am Gentlemen
Your obedient Servant



R N HARRISON OBE MA
Inspector

ENC