

NORTH WILTSHIRE DISTRICT COUNCIL

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 347.

APPEAL yes ☒ no

Plan's Ref N/83/0554/2N1

ADDRESS

GOATACRA
OF FAIRBRIDGE ROAD
MINKY.

BREACH of CONTROL

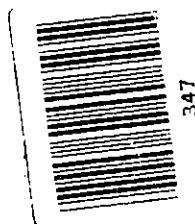
Issuing Authority N. W. D. C.

Date Issued 4. 3. 83.

STOP NOTICES

Date Served

Requiring



Date(s) served

4. 3. 83

Takes effect 11. 4. 83.

Compliance by 11. 8. 83.

Dates Extended by
Secretary of State

Date withdrawn

appeal dismissed 15/4/83

REQUIREMENTS of ENFORCEMENT



(i) To discontinue the use of the land for the purpose of providing residential accommodation.

(ii) To secure the removal of the mobile home brought on to the land for the purpose of providing residential accommodation.

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

The making of a material change in the use of the land to a use for the stationing of a mobile home for the purpose of providing residential accommodation.



Department of the Environment and Department of Transport

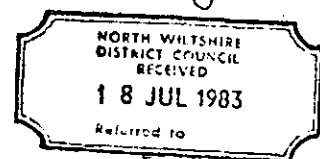
Common Services

Room 1410 Tollgate House Houlton Street Bristol BS2 9 DJ

Telex 449321

Direct line 0272-218 912

Switchboard 0272-218811

*Appeal Dismissed*

Council ref: AD/DA/520 AND 536

Mr A C Jones
Messrs Fielder and Jones
10 Oxford Street
MALMESBURY
Wiltshire
SN16 9AZ

Your reference

ACJ/MS AND AW/BJ/4452

Our reference

T/APP/5408/A/83/001058/PE2 AND

Date

C/83/752/PE2

15 JUL 1983

Sir

N/83/0554/ENF

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9

LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981

APPEALS BY MRS J WALDRON

LAND AT "GOATACRE", FLISTERIDGE ROAD, MINETY, WILTSHIRE

E347

1. I refer to the appeals, which I have been appointed to determine, against an enforcement notice issued by the North Wiltshire District Council and against a refusal of planning permission by that Council, concerning the above-mentioned land. I held an inquiry into the appeals on 28 June 1983. The evidence was not taken on oath.

2. The date of the notice is 4 March 1983. The breach of planning control alleged is that after the end of 1963 development has been carried out on the land, which is coloured red on a plan attached to the notice, by the making of a material change in its use to a use for the stationing of a mobile home for the purpose of providing residential accommodation without the grant of planning permission required for that development. The requirements of the notice are to discontinue the use of the land for the purpose of providing residential accommodation and to secure the removal of the mobile home brought on to the land for the purpose of providing residential accommodation. The period for compliance with the notice is 4 months. The appeal was made on ground 88(2)(a).

3. The development for which planning permission was refused is the use of the land as a site for a mobile home for a temporary period of 5 years and personal to Mr and Mrs J Waldron

SUMMARY OF DECISIONS

4. The formal decisions are set out at paragraphs 27 and 28. The appeal against the enforcement notice fails, the notice is being upheld subject to the extension of the period for compliance and planning permission is not being granted on the deemed application. The appeal against the refusal of planning permission also fails.

THE APPEAL SITE AND SURROUNDINGS

5. Minety, which is also known as Lower Minety, is a village situated in attractive rural surroundings. Just to the west is the settlement of Upper Minety. The appeal site of both appeals lies on the west side of Upper Minety. It is a grass field of about 0.12 ha which fronts and has vehicular access onto the north-east side of

Flisteridge Road, a narrow de-restricted stretch of the Class III road C76. On the site near the north-east boundary there is a mobile home, which is partly screened from the road by a lap-board fence, and a number of sheds used in connection with the housing, rearing and milking of goats. To the north-east and north-west of the site, and also across the road to the south-west, there are fields. To the south-east there is a sewage pumping station and then the garden of a dwelling.

THE CASE FOR THE APPELLANT

6. The main points are as follows. Your client is employed almost full-time looking after goats which she has kept on the appeal site for the past 10 to 12 years. Her husband works for a local building firm and helps her in his spare time. Both have lived in the area all their lives.

7. At present she has 20 goats of which 8 produce milk, 7 are for stud purposes, 2 are yearlings and 3 are kids. About 200 pints of milk a week are produced for which there is a ready and growing market, mainly through a health food shop in Swindon; the goats are milked twice a day. Stud fees number about 280 annually and some 5 young goats are sold every year. In addition a few goats owned by other people are looked after while their owners are on holiday. The premises are inspected regularly by the Public Health Officer who checks cleanliness and quality.

8. For many years your client and her husband lived in a mobile home which was sited at Flisteridge Farm, a short distance away to the north of the appeal site. They moved to the site in September 1982 because, with the goat business expanding, it became necessary to spend more time tending the animals and to guard against vandalism. A further reason for moving was that the farmer who owns Flisteridge Farm is about to retire.

9. Planning permission is sought only for a period of 5 years, personal to your client and her husband, to enable them to save enough money to acquire a rural dwelling with sufficient land attached for the goat business. They would thus present no housing problem for the council. If forced to leave the site now they would have nowhere else to live and the goat business would suffer severely or might even have to close. They have worked hard to establish the business which is just beginning to show a return. It was unfair of the council to serve an enforcement notice before the appeal against the refusal of planning permission was determined.

10. As to the 3 reasons given for serving the notice and refusing consent, the first alleges that the site is outside the limits of any established settlement. This is contested; cited in support is a statement made by the council when refusing a previous application for a mobile home on the land in June 1981 which said that the proposal represented "an intensification of a sporadically located group of dwellings".

11. Policy H19 of the structure plan, referred to in the second reason, is not relevant because the development concerned in these appeals is not a new dwelling. It is however connected with agriculture but, involving just a small enterprise, it does not qualify for the support of the Ministry of Agriculture or the County Council in the context of agricultural need.

12. The third reason has no basis because the development does not result in an increase in the number of vehicles entering and leaving the site. In fact the use of the access is reduced because, by living on the land, your client and her husband avoid having to visit the site several times a day. The granting of consent would create no precedent as similar circumstances are unlikely to arise in another case.

13. The development does not interfere with local amenities. Attention is drawn to the letters of support from Mrs Porter and Mr Curtis. It is significant that, although the circular letter giving notice of the Inquiry was delivered to 17 local properties, no objections resulted. Whilst a letter of objection was received from the Minety Parish Council, neither the chairman nor the clerk, both of whom live close to the site, reacted to the circular letter.

THE CASE FOR THE COUNCIL

14. The main points are as follows. Policy H19 of the approved structure plan states that new dwellings in the countryside unrelated to any established village will not normally be permitted unless justified in connection with the needs of agriculture or forestry. Policy H24 of the structure plan states that mobile homes, including residential caravans, will be treated in the same manner as permanent housing and, where they are environmentally acceptable, be subject to the same policies.

15. Work on preparing a local plan for the area is about to commence. Pending its completion the relevant provisions of the county development plan remain in force. In the development plan the appeal site lies within an area in which it is intended that existing land uses shall remain for the most part undisturbed and that only development essential to agriculture and other acceptable rural uses shall be permitted. In the plan Lower Minety is a village listed as suitable for limited development but Upper Minety is not so listed.

16. A previous application for similar development on the appeal site was refused consent in June 1981. Prior to that in January 1977 permission was granted for an agricultural access, which is the present means of access to the appeal site.

17. Before determining the application for planning permission, certain consultations took place. Minety Parish Council objected to the development, as did the County Surveyor. The County Planning Officer commented that the development did not appear to be justified in connection with agriculture and was for a new residential unit outside the established limits of Minety; as such it was in conflict with the policies and objectives of the structure plan, particularly Policies H19 and H24. The County Estates and Valuation Officer considered that the holding with its stock numbers at that time, said to be 13 milking goats, 6 stud male goats and 5 young goats for flock replacement, did not constitute a viable unit as defined in the Annex to Circular 24/73 and so he was unable to support the application on the basis of agricultural need.

18. The limit of Upper Minety in the direction of the appeal site is well defined; the site lies outside the limit in the open countryside, despite some sporadic development. The council has consistently resisted the consolidation of and additions to sporadic development in the area, in accordance with the development plan and structure plan provisions. This follows the guidance given in Development Control Policy Note 4 and Circular 22/80; whilst the latter encourages a more flexible and responsive system of control, it also seeks to protect the countryside.

19. Even though your client's enterprise provides a worthwhile and useful service, its economic viability has manifestly not been shown in the context of the Annex to Circular 24/73. The development for which consent is sought clearly involves a new dwelling unit but, in the absence of agricultural support, it is contrary to both local and national policies.

20. Although visibility at the means of access is satisfactory and there is no record of accidents occurring in the vicinity in recent years, this stretch of

Class III road is subject only to the national speed limit of 60 mph and it is narrow and lacks footways. These conditions mean that the road is unsuitable to cater for the additional vehicular and pedestrian traffic generated by the development, which if allowed would set a precedent for further development of a similar nature.

CONCLUSIONS

21. From the highway aspect, the stationing of a mobile home on the land has undoubtedly generated additional vehicular movements on and off the site, arising from the comings and goings associated with normal living, including service callers such as the postman. However it is to be recognised that, if your client and her husband lived elsewhere, they would visit the site several times a day in connection with the goat business. As they live on the land these visits do not take place. I consider that the additional vehicular movements generated by the development are largely offset by the saving effected by your client and her husband living on the site, so that on balance road conditions are not materially affected.
22. Regarding amenity considerations, the appeal site lies in an attractive stretch of countryside which fully merits the protection of the strict development control policies in force. Despite the existence of some sporadic development in the vicinity, I am satisfied from my inspection of the area that the site lies in open countryside beyond the limits of Upper Minety. I am also satisfied that the development for which planning permission is sought is, in effect, the provision of a new dwelling unit. In such a location it is a type of development which is not normally permitted under the provisions of the development control policies. Whilst the mobile home itself makes little visual impact, the noise and activity created by the associated residential use are likely to cause detriment to the rural environment.
23. In the circumstances my inspection of the appeal site and surroundings, and the representations made, indicate that the main issue in considering both appeals is whether, in the context of the development control policies, there is justification for allowing the development on the grounds of agricultural need. From the information before me I am not convinced that there is such justification; it seems to me that the goat business could continue to operate satisfactorily on its present scale without residential supervision.
24. I appreciate however that if the enforcement notice is upheld your client and her husband will be faced with the problem of finding another site for their mobile home, or other residential accommodation, within easy reach of the appeal site. This might prove to be a difficult, but not insuperable, task and it could take time. In the particular circumstances of this case, I conclude that the appropriate action to take is to refuse to grant the planning permission sought, even for a temporary period, but to extend the period for compliance with the enforcement notice to 12 months, in order to give your client and her husband time to arrange alternative residential accommodation. The appeal against the enforcement notice on ground (a) consequently fails, as does the appeal against the refusal to grant planning permission.
25. Although in the appeal against the enforcement notice ground (g) was not pleaded, I have considered it and am satisfied that the requirements of the notice are not excessive.
26. In my deliberations I have taken account of all the other issues raised but find that they are not sufficient to outweigh the considerations leading to my decision.

FORMAL DECISIONS

SECTION 88 APPEAL

27. In exercise of the powers transferred to me, and for the reasons given above, I hereby direct that the terms of the notice be varied by substituting the figure "12" for the word "four" in line 17. Subject to this variation, I uphold the notice, dismiss the appeal and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the 1971 Act (as amended by the Act of 1981).

SECTION 36 APPEAL

28. In exercise of the powers transferred to me, and for the reasons given above, I hereby dismiss the appeal.

RIGHT OF APPEAL

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

I am Sir
Your obedient Servant

A handwritten signature in dark ink, appearing to read 'J E Stevens', with a long, sweeping horizontal stroke at the end.

J E STEVENS OBE BE CEng FICE
Inspector

ENC

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

NORTH WILTSHIRE DISTRICT COUNCIL

1347.

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

ENFORCEMENT NOTICE

Land known as "Goatacre", off Flisteridge Road, Minety.
Grid Reference SU 0016 9113

WHEREAS:

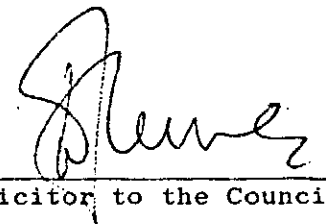
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises ("the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the carrying out of development by the making of a material change in the use of the land described in Schedule 2 below, without the grant of planning permission required for that development.
- (3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said section 87 for the reasons set out in the annex to this notice.

NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to remedy the breach within the period of four months from the date on which this notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88(10) of the Act, on the 11th April, 1983.

Issued 4th March, 1983.

Signed


Solicitor to the Council

North Wiltshire District Council,
Monkton Park,
Chippenham,
Wiltshire.

SCHEDULE 1

Land or premises to which this notice relates

The land known as "Goatacre" off Flisteridge Road, Minety in the County of Wiltshire situate at Grid Reference SU 0016 9113, being more particularly delineated on the attached plan and thereon coloured red.

SCHEDULE 2

Alleged breach of planning control

The making of a material change in the use of the land to a use for the stationing of a mobile home for the purpose of providing residential accommodation.

SCHEDULE 3

Steps required to be taken

- (i) To discontinue the use of the land for the purpose of providing residential accommodation.
- (ii) To secure the removal of the mobile home brought on to the land for the purpose of providing residential accommodation.

THE ANNEX

STATEMENT OF REASONS

(NOTE: THIS DOES NOT FORM PART OF THE ENFORCEMENT NOTICE)

1. The site lies outside the limits of any established settlement, or its reasonable extension, in an area which it is the policy of the local planning authority that existing uses shall remain for the most part undisturbed and only development essential to agricultural need shall be approved.
2. The development is contrary to the North East Wiltshire Structure Plan H19 which states that new dwellings in the countryside unrelated to any established village will not normally be permitted unless justified in connection with the needs of agriculture or forestry.
3. The development increases the number of vehicles entering and leaving the narrow Class III road which is inadequate for this and further similar development for which it would set a precedent.

[illegible]