

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 415		
APPEAL	yes	no
Plan's Ref		

ADDRESS

THE CROSS.
BIDDYSTON.

BREACH of CONTROL

THE MAKING OF A MATERIAL CHANGE
IN THE USE OF THE LAND FROM USE
FOR PURPOSES APPURTINANT TO A
DWELLINGHOUSE TO USE FOR THOSE
PURPOSES AND, IN ADDITION, THE
STATIONING OF A COMMERCIAL VEHICLE
USED FOR HIRE.

Issuing Authority N W D C

Date Issued 7. 1. 85

STOP NOTICES

Date Served

Requiring



Date withdrawn

Date(s) served

7. 1. 85.

Takes effect 11. 2. 85.

Compliance by 11. 3. 85

Dates Extended by
Secretary of StateAppeal dismissed

REQUIREMENTS of ENFORCEMENT

(i) TO CEASE THE USE OF THE LAND FOR THE
STATIONING OF A COMMERCIAL VEHICLE.

(ii) TO REMOVE THE SAID COMMERCIAL VEHICLE
FROM THE LAND

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

R Burton

IMPORTANT

THIS COMMUNICATION AFFECTS
YOUR PROPERTY

District Secretary's Department
D. F. Lewis
Solicitor to the Council

DATE	10	PAGE	1
TO			
FROM			
10 JAN 1985			



**North Wiltshire
District Council**

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER.
Tel. Chippenham (0249) 654188.
Ext. 132

Our ref **E** 415

Enquiries to Mr. McDonald

Dear Sir/Madam,

7th January, 1985

NORTH WILTSHIRE DISTRICT COUNCIL TOWN AND COUNTRY PLANNING ACT 1971 (as amended) **ENFORCEMENT NOTICE**

THE CROFT, BIDDESTONE, WILTSHIRE

The Council have issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your interest in the land.

Unless an appeal is made to the Secretary of State, as described below, the Notice will take effect on the date shown in the box below and you must then ensure that the required steps for which you may be held responsible are taken within the period or periods specified in the Notice.

If you wish to appeal against the Notice, you should first read carefully the enclosed booklet entitled "Enforcement Notice Appeals - A Guide to Procedure". Then, you or your agent should complete the enclosed appeal form and send it, together with the extra copy of the Enforcement Notice enclosed herewith and the fee specified in the box below, to the address on the appeal form. Your appeal must be received by the Department of the Environment BEFORE the Notice takes effect.

There is a requirement on the Council to specify the reasons why the local planning authority consider it expedient to issue the Notice and these reasons are set out in the ANNEX overleaf.

Yours faithfully,

Solicitor

DATE ON WHICH NOTICE TAKES EFFECT and
BEFORE WHICH ANY APPEAL MUST BE
RECEIVED - 11th February, 1985

FEE WHICH MUST ACCOMPANY
APPEAL -

£47

To:

Mr. A.L. Granger,
The Croft,
Biddestone,
Chippenham,
Wilts.

ANNEX - (This does not form part of the Enforcement Notice)

The use is undesirable in this predominantly residential location and results in severe loss of amenity to the several closely affected dwellings by reason of noise and visual intrusion.

NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE

THE CROFT, BIDDESTONE, WILTSHIRE

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 the 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 ONE MONTH 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 11th February, 1985.

ISSUED 7th January, 1985

Signed

Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - LAND OR PREMISES TO WHICH THIS NOTICE RELATES

Land at the rear of The Croft, Biddestone, Chippenham, Wilts
shown stippled-edged on the attached plan.

SCHEDULE 2 - ALLEGED BREACH OF PLANNING CONTROL

The making of a material change in the use of the land from use
for purposes appurtenant to a dwellinghouse to use for those
purposes and, in addition, the stationing of a commercial vehicle used
for haulage.

SCHEDULE 3 - STEPS REQUIRED TO BE TAKEN

- (i) To cease the use of the land for the stationing of
a commercial vehicle.
- (ii) To remove the said commercial vehicle from the land.

E415

WILTSHIRE DISTRICT

**NORTH WILTSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1971 (as amended)
ENFORCEMENT NOTICE**

Scale 1:2500

**the land
referred to:**



Biddestone

**Department of the Environment and
Department of Transport**



Common Services

Room 1408

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Mrs G. Davel

E 415

Direct line 0272-218 938
Switchboard 0272-218811
GTN 2074
PLANNING DEPARTMENT
25 SEP 1985

Council Ref AD/698

M W Lane & Co Solicitors
Emery House
Emery Lane
CHIPPENHAM
Wilts
SN15 3JP

Your reference
MWL/CJ/G152

Our reference
T/APP/J3910/C/85/625/P6

Date
17 SEP 85

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEAL BY MR A L GRANGER
LAND AT THE REAR OF THE CROFT, BIDDESTONE, CHIPPENHAM

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This is against an enforcement notice issued by the North Wiltshire District Council concerning the above land. 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 12 August 1985.
2.
 - a. The date of the notice is 7 January 1985.
 - b. The breach of the planning control alleged in the notice is the making of a material change of use from purposes appurtenant to a dwelling house to use for those purposes and, in addition, the stationing of a commercial vehicle used for haulage.
 - c. The requirements of the notice are i. to cease the use of the land for the stationing of a commercial vehicle ii. to remove the said commercial vehicle from the land.
 - d. The period of compliance with the notice is one month.
 - e. The appeal was made on grounds 88(2)(a) and (b).
3. Dealing first with your submissions on ground (b), I note the planning history as set out in your statement of facts. You seek to prove that some form of commercial use has taken place on land of which the appeal site formed part, since - say - 1922. You refer to milk collection, coal and general haulage. These submissions would indicate an appeal under ground (e) of Section 88. The Department drew attention to the possibility of this additional ground in their letter of 5 March 1985. In enforcement appeals, the onus of proof lies with the appellant and in the representations before me, the claim for continuous use, which began before the end of 1963 and has so continued from 1 January 1964 is of a general nature. It is not supported by independent witnesses' statements or affidavits giving particular facts and dates. Moreover, a gap in the use appears following the collapse of the Bob Matthews business in 1979.
4. On the balance of probability, I reject your submission that from 1922 to the present time the site has been used for the parking of a commercial vehicle. Had there been an appeal on ground (e) before me, it would fail.
5. The appeal site, shown stippled-edged on the enforcement notice plan is the curtilage of the private dwelling now being built by Mr Granger. The lorry, a

16 ton Volvo, is kept in a compound alongside the domestic garage of the new house. Clearly, the parking of this lorry is not incidental to the enjoyment of the dwelling house as such; it is therefore a material change in the use of the land. The change is material because of its effects on nearby residential property and this amounts to development for which planning permission was required. I note that such an application was refused in November 1984. A breach of planning control has taken place and the appeal on ground (b) fails.

6. From my inspection of the site, its surroundings and the representations made, I am of the opinion that the main issue is the effect of the proposal on the amenities of the immediate locality.

7. Biddestone is an attractive Wiltshire village lying about one mile to the south of the A420, Chippenham-Bristol Road. The appeal site is in a small enclave of dwellings behind Church Road and Cuttle Lane, with access from the latter. The major portion of the village is designated a Conservation Area and lies within the Cotswold Area of Outstanding Natural Beauty.

8. The lorry is parked on the western edge of the site directly facing the Church and graveyard, alongside the newly erected garage. A compound has been created by the erection of a 7 ft high screening fence which leaves only the cab of the vehicle in view from the east. On the assumption that the lorry is always kept inside this compound and the gates are kept closed, then the visual impact is reduced. Nevertheless the presence of the vehicle over the low wall of the churchyard is a visual intrusion and inappropriate in a conservation area.

9. The use has already given rise to substantial and detailed complaints from those living nearby. I refer to Parkers Farm Bungalow, Stable Cottage, The Little House, The Old Bakehouse, and Corner House. These objections specify, noise, disturbance and vibrations from the very heavy diesel lorry. The noise is said to start early in the morning between 3.00 and 5.00 am. These submissions are countered by Mr Granger who points out that the Volvo engine is not noisy, also that he does not run his engine to warm it and that he leaves in the quietest possible way. As regards the washing down of the lorry, I note that a catchment area and adequate drainage are to be installed in the new driveway. The Council also point to policy objections stemming from the Structure and Local Plans. The Parish Council supported the refusal of planning permission.

10. Although I acknowledge that some form of commercial and agricultural activity has taken place on the appeal site in past years, the use now enforced against is of a different nature. The regular coming and going of a 16 ton lorry in the early hours of the morning has in my opinion, militated against the quiet attractive character of the village. Furthermore, it seems to me that residents in the immediate vicinity suffer a distinct loss of the standard of amenity expected in this residential locality. Although the lorry when parked in the compound would be inconspicuous, there will be times when it is outside. In addition to the noise nuisance, I note that the - necessary - use of headlights is a source of annoyance. Perhaps The Little House directly fronting the access suffers most. Against these objections I have weighed the petition in support of Mr Granger; not all of the signatures live in the close vicinity of the site. However, I have reached the conclusion that in all the circumstances, the appeal site is not a suitable location for the parking of this 16 ton lorry because of the distinct disadvantages caused to nearby residential properties.

11. Before reaching my decision, I have given due consideration to the advice given in Circulars 22/80 and 14/85. In this case there are clear policy and amenity objections and the grant of planning permission would not be justified.

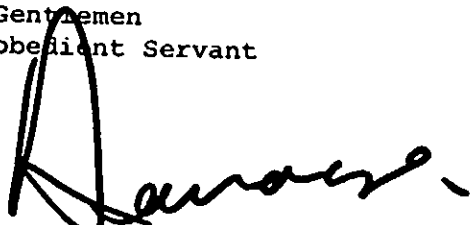
12. I have considered all the other matters raised but they do not affect my decision.

FORMAL DECISION

13. For the above reasons and in exercise of the powers transferred to me, I hereby dismiss the 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.

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

I am Gentlemen
Your obedient Servant



T A K SAVAGE
Inspector

ENCS