

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 498

APPEAL

yes

no

Plan's Ref N/87/2410/F

ADDRESS

LAND AT ASHTON-KYNDEN R.D.
LUTCH.
SWINDON WILTS

BREACH of CONTROL

THE MAKING OF A MATERIAL CHANGE
IN THE USE OF THE LAND FROM A
DISUSED SEWAGE DISPOSAL WORKS AND
REFUSE TIP TO USE FOR THE STATIONING
AND RESIDENTIAL OCCUPATION OF CARAVANS
AND MOBILE HOMES AND THE STATIONING
OF VEHICLES IN ASSOCIATION THEREWITH

Issuing Authority

NWDC

Date Issued 8.1.88

STOP NOTICES

Date Served

Requiring

Date(s) served

8.1.88

Takes effect 15.2.88

Compliance by 15.8.88

Dates Extended by
Secretary of State

Enforcement quashed
See Notice attached

Date withdrawn

REQUIREMENTS of ENFORCEMENT

- 1 TO CEASE THE RESIDENTIAL USE
OF THE LAND
- 2 TO REMOVE FROM THE LAND THE SAID
CARAVANS, MOBILE HOMES AND VEHICLES

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

10/1/77

10/1/77

10/1/77

10/1/77

IMPORTANT -
THIS COMMUNICATION AFFECTS
YOUR PROPERTY

District Secretary's Department,
G. C. Betteridge, LL.B., (Solicitor),
District Secretary



North Wiltshire
District Council

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER
Tel. Chippenham (0249) 654188
Ext. 130

Our ref **E** 498

Enquires to Mr McDonald

Your ref

8th January, 1988

Dear Sir/Madam,

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

LAND AT ASHTON KEYNES ROAD, LEIGH, SWINDON, 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 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,

Assistant District Secretary

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED 15 February 1988

To:

M. Clarke
Bourne Lake Park
Ashton Keynes
Swindon
Wiltshire

C. Clarke
Bourne Lake Park
Ashton Keynes
Swindon
Wiltshire

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

Reasons for issue:-

1. The use constitutes isolated and sporadic development within open countryside detrimental to the character of this area in particular and rural amenity in general and would set a precedent for further similar undesirable proposals.
2. The use is contrary to Policy H.19 of the North East Wiltshire Structure Plan 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 site is a former refuse tip and sewage works and is likely to be contaminated rendering it unsuitable for residential development.

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

LAND AT ASHTON KEYNES ROAD, LEIGH, SWINDON, WILTSHIRE

WHEREAS :

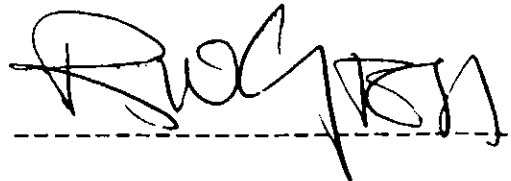
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises ("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 Six 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 15 February 1988

ISSUED 8 January, 1988

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this notice relates

Land known as Bourne Lake Park, Ashton Keynes Road, Leigh, Ashton Keynes, Swindon, Wiltshire being the site of a former sewage disposal works and refuse tip shown stipple-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 a disused sewage disposal works and refuse tip to use for the stationing and residential occupation of caravans and mobile homes and the stationing of vehicles in association therewith.

SCHEDULE 3 - Steps required to be taken

- (1) To cease the residential use of the land.
- (2) To remove from the land the said caravans, mobile homes and vehicles.

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

Scale 1:2500

Bournelake Farm

the land referred to:



Planning Inspectorate
Department of the Environment

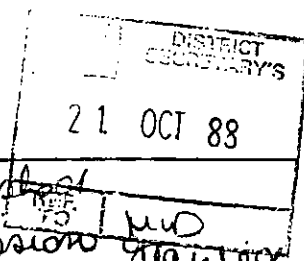
Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

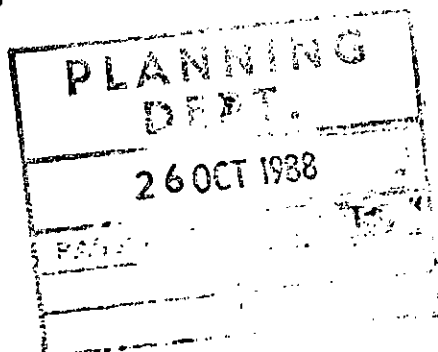
N/87/2410/F

E 498

Direct Line 0272-218927
Switchboard 0272-218915
GTN 2074



Beresford Webb & Co
Blackburn House
London Road
COVENTRY CV3 4AL



Enforcement quashed
Planning Permission granted
Your Reference: *for 4 pitch caravan site.*
390/87

Our Reference:
T/APP/C/88/J3910/2-3/P6
& T/APP/J3910/A/88/086254/P6
Council Reference:
McD/KP AD/970

Date: 19 OCT 88

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 36 AND 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEALS BY M & C CLARKE
LAND AT ASHTON KEYNES ROAD, LEIGH, SWINDON, WILTSHIRE

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. They are against the decisions of the North Wiltshire District Council to refuse planning permission for a 12 pitch caravan site and the installation of a septic tank on the above mentioned land, and against an enforcement notice concerning the same land. I held an inquiry into both appeals on 15 September 1988.

- a. The date of the enforcement notice is 8 January 1988.
- b. The breach of planning control alleged in the notice is the making of a material change in the use of the land from a sewage disposal works and refuse tip to use for the stationing and residential occupation of caravans and mobile homes and the stationing of vehicles in association therewith.
- c. The requirements of the notice are:
 - i. To cease the residential use of the land.
 - ii. To remove from the land the said caravans, mobile homes and vehicles.
- d. The period for compliance with the notice is 6 months.
- e. The appeal was made on the grounds set out in Section 88(2) (a) and (h) of the 1971 Act as amended.
- f. Evidence was not taken under oath.

The section 36 appeal and the appeal on ground (a)

2. At the inquiry the original application for a 12 pitch caravan site was amended to one for a 7 pitch caravan site and the application for a septic tank was amended to an application for a sealed cesspit. These amendments are shown in Plan Reference No C.4001:88. In my opinion both of these amendments are acceptable in as much as they do not raise new planning issues or extend the area of the site in question.
3. In consequence of these amendments the council withdrew reason for refusal number 3 shown on Refusal Notice Number N.87.2410.F, dated 30 November 1987.
4. It was agreed at the inquiry that the appeal site is set in the open countryside where new isolated dwellings would not normally be permitted. It was also agreed that the appellants are Gypsies within the meaning of the Caravan Sites Act 1968. In the circumstances it seems to me that the main issue in both cases is whether the need for new private gypsy sites is such as to outweigh the general presumption which exists against the development of new dwellings in the open countryside.
5. In my view the council rightly derive a measure of professional and personal satisfaction at having made a level of provision for gypsy caravans such that their area has been the subject of a Designation Order under the 1968 Act. Following on from the making of the Order the council are of the opinion that there is no need for additional gypsy sites in the locality.
6. In this regard I accept that the appellants have not traditionally resided in North Wiltshire. It does seem to me, however, that the appellants have travelled to this area over the years albeit at the margin of their range, and have now decided for social and business reasons to settle in the locality. Bearing in mind the appellants' nomadic way of life, their previous association with the North Wiltshire area and the fact that the Ridgely and Walls families who would also be accommodated at the site have more than passing associations with the North Wiltshire area, I would not consider the appellants' argument that there is a local need as being unreasonable in the circumstances. This in my view is especially the case given that there are no readily identifiable alternative private sites in the area available to the appellants.
7. Whatever the local need situation, however, it was put to the inquiry that there are approximately 4000 gypsy families in the United Kingdom who have nowhere legal to camp. This assertion was not challenged. National policy clearly states that accommodation for gypsies should be given a high priority both in the interests of the gypsies themselves and house dwellers who suffer the proliferation of unauthorised encampments. It is also Government policy that where appropriate private sites should be encouraged to reduce the burden on the public purse. I therefore conclude that there is a need for new private gypsy sites. I do not accept that as North Wiltshire has the benefit of an Order under the 1968 Act that no further gypsy sites should be established in the area. Such an approach it seems to me would be over restrictive and fail to meet the criteria that each application should be considered on its merits.
8. As to the appropriateness of the appeals' site, with the exception of the access it seems to me that it readily meets the location criteria for gypsy sites laid down by the Association of County Councils. It is reasonably well screened by high thick hedges, it is removed from existing dwellings and set back from the road. It is a spacious site and as I saw, if limited to 7 plots it has ample room to accommodate vehicle parking and play areas for children.

9. Given the special needs of gypsies and the general advice that applications for gypsy sites should be treated in a flexible and sympathetic manner, I see no clear cut planning reasons to refuse planning permission for the establishment of a new gypsy settlement at the appeals' site. I accept that the access is not ideal, but as I saw it is not so poor that drivers exercising due care and attention could not use it safely. In this respect I attach weight to the fact that the same access has previously been used by council refuse lorries, apparently without mishap and that traffic flow over a 12 hour day on the C70 where it passes the proposed site access is probably less than 1300 vehicles, even after allowing for the anticipated increase in lorry use following the working of minerals at Manor Farm. I agree with the Highway Authority, however, that it is necessary for the access track to be at least 6m wide in order to allow 2 lorries to pass, given that those living at the site would be regularly using such vehicles. A track 6m wide should enable lorries wishing to turn into the site to do so without having to wait on the public highway.

10. I can understand the concern of local residents that the electricity generator which has been used at the site since its occupation is relatively very noisy in this otherwise peaceful rural area, and that the landscaping around the caravans should be improved to screen the site from round about throughout the year and not just in the summer when the hedges are in leaf. These it seems to me, however, are matters that can properly be covered by way of appropriate planning conditions. In this regard I note your clients are prepared to connect the site to a mains electricity supply and to agree a landscaping scheme with the local planning authority. I also note your clients' acceptance of the need for a condition limiting the use of the site to residential purposes only.

11. In deciding that planning permission should be granted for the 7 plots applied for, I have also given weight to the fact that the 7 children from the appeals' site make a significant contribution to the roll of Leigh Primary School which presently numbers 33. Bearing in mind that the County Council roll figure for viability is about 30, it seems to me that the presence of those living at the appeals' site goes some way to ensuring the continued existence of the village school. This argument is accepted and supported by the Chairman of the School Governors.

12. I have also considered all the other matters raised at the inquiry and in the written representations, including the policy background both local and national and the issue of precedent, but I find no argument so cogent as to lead me to alter my conclusions.

Conclusions with respect to the section 36 appeal and the appeal on ground (a)

13. It seems to me that subject to conditions the appeals' site is capable of satisfying a real need for gypsy accommodation in a position which should allow those who settle at the site to follow their way of life without unreasonably detracting from the life style of those who already live in the locality.

14. Having considered all the evidence I am of the opinion that your appeal under ground 88(2)(a) should succeed for the reasons given above. I therefore propose to quash the enforcement notice. In the circumstances the appeal on ground (h) does not fall to be considered. However because the fee payable under the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1981 has not been paid it is not proposed to deal with the application deemed to have been made under section 88B(3) of the 1971 Act, as amended by the Local Government and Planning (Amendment) Act 1983. Your appeal under section 36 of the 1971 Act succeeds however.

FORMAL, DECISIONS

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

Section 88 appeal

allow the appeal against the enforcement notice and direct that the notice be quashed.

Section 36 appeal

allow the appeal and grant planning permission for a 7 pitch caravan site and the installation of a sealed cesspit in accordance with the terms of the application No.87.2410.F and the plan submitted therewith dated 21 September 1987 as subsequently amended by Plan No.C.4001:88, subject to the following conditions:-

1. No more than 2 caravans shall be placed on each pitch.
 2. Within 6 months of the date of this letter a landscaping scheme to include provision for the reinforcement of the boundaries of the appeal site and the children's play area shown on the revised plan reference C.4001:88 shall be submitted to the local planning authority in writing. This scheme shall be implemented in the first planting season following the agreement of the planting scheme. Any trees or other plants which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.
 3. Within 6 months of the date of this letter the 7 caravan pitches shall be connected to a mains electricity supply.
 4. After a period of six months from the date of this letter excepting in emergencies no electricity generators shall be operated on the site.
 5. Within 6 months of the date of this letter the access track to the site shall be widened and hard surfaced to 6m for a distance of at least 20m commencing at a point 10m from Ashton Keynes Road.
 6. The site shall not be used for any storage or industrial purposes in connection with a trade or business, save for the parking of lorries.
16. Attention is drawn to the fact that an applicant for any consent or agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.
17. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

Rights of appeal

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

I am Gentlemen
Your obedient Servant

A handwritten signature in dark ink, appearing to read 'I. S. Roxburgh', with a horizontal line extending to the left.

I S ROXBURGH BSc PhD MPhil DMS
Inspector

ENC

APPEARANCES

FOR THE APPELLANT

Mr C A Beresford-Webb

He gave evidence on his own behalf
and called:

Mr A J Penfold

FOR THE LOCAL PLANNING AUTHORITY

Mr J F McDonald

He called:

Mr R B Williams Dip TP MRTPI
MBIM MIAS

Mr P Geering

INTERESTED PERSONS

Mr N J Durnford MRSH MRIPH MIEH

Mrs A whitwell

Mr M A Chandler

Councillor Mrs M Walpole

Mr T J Russell

Mr M Gibbs

Mr R Cooper

Mr F J Crenin

REFERENCE NUMBERS:

T/APP/C/88/J3910/2-3 &
T/APP/J3910/A/88/086254

Beresford-Webb & Co,
Blackburn House, London Road,
Coventry CV3 4AL.

Number 2, The Brickfield
Caravan Site, Wimbledon,
London.

Principal Officer with the
Authority.

Principal Planning Officer
with the Authority.

Planning Liason Officer with
the Highway Authority.

Senior Public Health Inspector
with Wiltshire County Council.

Teacher for Travellers with
Wiltshire County Council.

Representing Leigh Parish Council.

Members Room, Council Offices,
Monkton Park, Chippenham,
Wiltshire SN15 1ER.

Representing Leigh Primary School,
Leigh, nr Malmesbury, Wiltshire.

The Old Brickyard, Ashton Keynes,
Wiltshire.

Chelworth Manor, Chelworth,
Cricklade, Wiltshire.

Barncombe House, West Mill Lane,
Cricklade, Wiltshire.

DOCUMENTS

Document 1-List of those present at the inquiry.

- " 2-Council's letter of notification.
- " 3-Bundle of 6 letters received in response to document 2.
- " 4-Bundle handed in on behalf of the appellants.
- " 5-Bundle handed in on behalf of the local planning authority
- " 6-Policy extracts handed in by the local planning authority.

PLANS

Plan A-Plan attached to the notice.

- " B-Plan Reference No.C.4001:88 showing the revised layout for 7 pitches, the road widening proposals, the childrens' play area and the site of the cesspit.

KAY

THIS COMMUNICATION AFFECTS YOUR PROPERTY

District Secretary's Department,
G. C. Betteridge, LL.B., (Solicitor),
District Secretary



North Wiltshire District Council

Monkton Park,
Chippenham,
Wiltshire, SN15 1ER
Tel. Chippenham (0249) 654188
Ext. 130

498

Our ref **E** 498

Enquires to Mr McDonald

Your ref

8th January, 1988

Dear Sir/Madam,

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

LAND AT ASHTON KEYNES ROAD, LEIGH, SWINDON, 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.

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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,

Assistant District Secretary

DATE ON WHICH NOTICE TAKES EFFECT
AND BEFORE WHICH ANY APPEAL
MUST BE RECEIVED 15 February 1988

To:

M. Clarke
Bourne Lake Park
Ashton Keynes
Swindon
Wiltshire

C. Clarke
Bourne Lake Park
Ashton Keynes
Swindon
Wiltshire

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

Reasons for issue:-

1. The use constitutes isolated and sporadic development within open countryside detrimental to the character of this area in particular and rural amenity in general and would set a precedent for further similar undesirable proposals.
2. The use is contrary to Policy H.19 of the North East Wiltshire Structure Plan 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 site is a former refuse tip and sewage works and is likely to be contaminated rendering it unsuitable for residential development.

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

LAND AT ASHTON KEYNES ROAD, LEIGH, SWINDON, WILTSHIRE

WHEREAS :

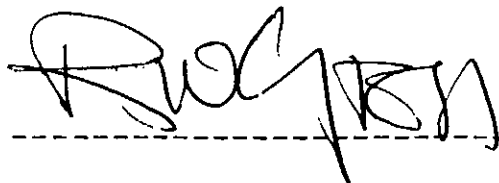
- (1) It appears to the North Wiltshire District Council ("the Council") being the local planning authority for the purposes of Section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control after the end of 1963 on the land or premises ("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 Six 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 15 February 1988

ISSUED 8 January, 1988

Signed



Monkton Park,
Chippenham, SN15 1ER.

/ SCHEDULE 1

(over)

SCHEDULE 1 - Land or premises to which this notice relates

Land known as Bourne Lake Park, Ashton Keynes Road, Leigh, Ashton Keynes, Swindon, Wiltshire being the site of a former sewage disposal works and refuse tip shown stipple-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 a disused sewage disposal works and refuse tip to use for the stationing and residential occupation of caravans and mobile homes and the stationing of vehicles in association therewith.

SCHEDULE 3 - Steps required to be taken

- (1) To cease the residential use of the land.
- (2) To remove from the land the said caravans, mobile homes and vehicles.

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

Scale 1:2500

the land referred to:

dependent from the Government having
to do with the relations of the Government
of the Independent Office.

Bournelake Farm

Cross Roads Farm

348c
375n2

5388
12542

6986
-80942

0618
9712

7868
13542

75956
1971

4016

0077
0545

9300

6300

Bourlake Coxages

Source: *...*

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