

ENFORCEMENT REGISTER INFORMATION SHEET

E/ 80

APPEAL yes ☒

Plan's Ref N/82/0619/ENV

ADDRESS

LYDIARD PARK MOBILE HOMES,
HOOK STREET,
LYDIARD TREGOZE,
NR. WOOTTON BASSETT

BREACH of CONTROL

The making of a material change in
the use of the land to the use for the
storage of an ex-Royal Navy helicopter
caravan site

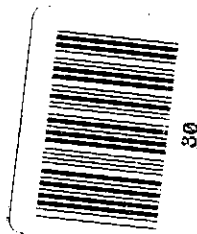
Issuing Authority N. W. D. C.

Date Issued 18-2-82

STOP NOTICES

Date Served

Requiring



Date withdrawn

Date(s) served

Takes effect 1-4-82

Compliance by 1-6-82

Dates Extended by
Secretary of StateVariation of Notice
26/1/83

REQUIREMENTS of ENFORCEMENT

- (1) Discontinue the use of the land in connection with the storage of the helicopter
- (2) To secure the removal of the said helicopter
- (3) To secure the complete removal of the concrete pads constructed for the storage of the said helicopter
- (4) To secure the complete removal of the stone structure and all building materials used in connection with the construction thereof

EXTENT to WHICH NOTICE COMPLIED WITH (dates)

12-
IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

NORTH WILTSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (as amended)


ENFORCEMENT NOTICE

**Lydiard Park Mobile Homes Site, Hook Street,
Lydiard Tregoze, Nr. Wootton Bassett**

E-80

Chief Planning Officer

For the attention
of Mr C Waller

 PLANNING DEPARTMENT	PASSED TO	DATE RECEIVED
	<input checked="" type="checkbox"/>	19 2
CH		19 FEB 1982

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 and within the period of 4 years before the day of issue of this notice on the land or premises (hereinafter referred to as "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(a) below and the carrying out of the building, engineering, mining or other operations described in Schedule 2(b) 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.
- THE COUNCIL 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 two 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 1st day of April, 1982.

Issued: 18th February, 1982

Signed:

Solicitor to the Council

North Wiltshire District Council,
Monkton Park,
Chippenham,
Wiltshire,
SN15 1ER



Department of the Environment and
Department of Transport

Common Services

Room 1411 Tollgate House Houlton Street Bristol BS2 9 DJ

Telex 449321

Direct line 0272-218 914

Switchboard 0272-218811

N/82/0619/ENF

79/1056

Council Reference AD/DA/469

Messrs Fleury Manico
Chartered Surveyors
30 Milsom Street
BATH
BA1 1DG

28 JAN 1983

Your reference

52/HJM/44801

Our reference

T/APP/5408/C/82/722,723/G4

Date

26 JAN 1983

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9

APPEALS BY MR AND MRS S B CAVNER

LAND AND BUILDINGS AT HOOK STREET, LYDIARD TREGOZE, NR WOOTTON BASSETT

1. I refer to these appeals, which I have been appointed to determine, against an enforcement notice dated 18 February 1982 served by North Wiltshire District Council concerning the above mentioned land and buildings. I have considered the representations made by you and by the Council, and also those made by interested persons. I inspected the site on 20 December 1982.
2. a. The breach of planning control alleged is:
 1. The making of a material change in the use of the land to a use for the storage of an ex-Royal Navy helicopter, caravan site (sic).
 - 2.1. The construction of concrete pads to which the said helicopter is affixed by cables.
 - 2.2. The erection of a stone structure with gable roof approximately 3.870 m high, 1.830 m wide and 1.700 m deep surrounded by a number of circular stone beds on the island between the dual access to the land.
- b. The requirements are:
 1. To discontinue the use of the land in connection with the storage of the said helicopter.
 2. To secure the removal of the said helicopter.
 3. To secure the complete removal of the concrete pads constructed for the storage of the said helicopter.
 4. To secure the complete removal of the said stone structure and all building materials used in connection with the construction thereof.
- c. The period for compliance is 2 months.
- d. The appeals were made on grounds 88(2)(a), (f), (g) and (h).
3. In summary, the notice is being upheld and planning permission is not being granted. More time for compliance is being allowed, the requirements are being varied, and a new plan is being substituted for that attached to the notice.

4. The helicopter, an elderly Whirlwind, stands on the east side of the entrance to the mobile home site; the nose and rear of the fuselage are painted in fading orange dayglow paint; the middle part being a dark bluish sea camouflage. The rotor and tail rotor are both in position, the former being decorated with fairy lights, presumably for Christmas. The substantial stone structure stands on a heart shaped traffic island at the mouth of the entrance to the site. The pitched roof is tiled with green tiles which appeared to be bituminous, and there are white plastic gutters along each eave, with a white plastic down pipe on each side of the structure. Immediately below the roof is a large rectangular opening, across which run 2 wooden beams, apparently intended to carry a sign, although no sign was being displayed. The surroundings are generally rural, with farm buildings and a few scattered houses, and of course the group of mobile homes at the north end of the entrance road. Both the helicopter and the stone structure are very prominent.

Ground (f)

5. The relevant facts are:

a. Two copies of the notice were served on your clients, one under a covering letter addressed to Mr S B Cavner, the other under a covering letter addressed to Mr J M Cavner.

b. The surname should correctly be spelt Cavner, not Cavener, and J M Cavner is in fact Mr S B Cavner's wife.

c. Although owned by Mr and Mrs Cavner, the mobile home site is occupied by Neyuint Limited, the heading of whose company writing paper includes the words "Directors: S B Cavner, J M Cavner".

d. In reply to the Department's pro-forma letter sent to the Council on receipt of your clients' appeal, the Council said, in their letter to the Department of 30 April 1982 that the notice was served on the Company Secretary, Neyuint Limited at the Company's Leicester address, as well as on your clients and others. Your clients, on the other hand, claim that it was not served on Neyuint, as occupiers of the site.

e. On 12 May 1982 25 of the mobile homes on the site were occupied, but the notice was not served on any of these occupants.

f. Schedule 2(a) of the notice, which describes the material change of use alleged to have been made includes the words "caravan site" after helicopter.

6. You say that the notice has not been correctly served as required by Section 87(5) of the Act because your clients' name has been misspelt, and because one notice should have been addressed not to Mr J M Cavner but to Mrs J M Cavner. Since the land is vested in Neyuint Limited they could be liable to prosecution rather than your clients and should therefore have been served with the notice. The mention of use as a caravan site in Schedule 2(a) is claimed to be uncertain through being included in the material change of use alleged. The area of land shown on the plan attached to the notice is larger than it should be, since it includes other land owned by your client as well as the caravan site. In fact the planning unit should be the small piece of land at the site entrance in which the use alleged took place. Since caravan site use is mentioned in Schedule 2(a) each caravan occupant should have been served with the notice, and their interests have been thereby prejudiced.

7. The Council consider that any errors in the notice are minor and can be corrected if necessary.

8. I conclude that the errors concerning your clients' names, initials and titles are not errors in the notice at all, but errors in the covering letters, which do not form part of the notice. Whether or not the notice actually reached Neyuint Limited is not in my view material, since it reached both the Directors - your clients - who lodged the appeal. I do not think that Neyuint have been prejudiced if they did not receive another copy.

9. The reference to a caravan site at Schedule 2(a) in my view merely recognises the mixed use of the land - ie as a caravan site and for the storage of the helicopter. The requirement of the notice makes it quite clear that the caravan site is not affected.

10. I agree that the area outlined in red on the plan attached to the notice is larger than it should be, and consider that the correct planning unit in this case is the caravan site and entrance road. This can be corrected without injustice to either party, and I am enclosing a new plan to be substituted for that now attached to the notice.

11. I do not think it necessary to serve notices on the occupants of the caravans. If, for example, similar structures were put up at the entrance road to a close, or state of houses, it would not be necessary to serve the notice on the occupants of all the houses in the close. The occupants of the mobile homes are, in my view in an analogous position. Had the notice alleged, for example, the stationing of residential caravans without the grant of planning permission, their interests would of course have been prejudiced, but this is not so here. Ground (f) therefore fails.

Ground (a)

12. It seems to me that this is not the right place for an old helicopter - in its dayglow paint it is strident and discordant in rural surroundings. Unless regularly painted and treated its appearance will deteriorate further, and it will eventually look derelict. It would not be possible to impose a condition that it must be regularly painted and treated for an indefinite period. You suggest that it might look better if painted green, but in my view it would no longer even appear to be what it is, an ex-naval helicopter, and would have no more affinity with its surroundings than it has now. I have no doubt it is out of place and ought to be removed.

13. As to the stone structure on the island, it appears to me to be out of all proportion to its function, which, presumably, is to indicate the caravan site. It is very bulky and is rather higher, for example, than the average domestic garage. This is an area where a substantial structure such as this is bound to detract from its rural character. In character it is urban or suburban, and altogether out of keeping. It performs no important function which might counterbalance its disadvantages. The appeals fail on ground (a).

Grounds (g) and (h)

14. On ground (g), I do not think that it is necessary to remove the concrete pads on which the helicopter rests. They are not prominent and are likely in time to be covered with vegetation. As to the stone structure, the necessary improvement in appearance would not be achieved unless it is removed altogether, and this part of the requirement cannot be eased.

15. On ground (h), I appreciate that your clients may have difficulty in finding somewhere else to put the helicopter and am therefore increasing the period for compliance to 4 months. I have also considered all the other matters raised in the written representations, but can see no reason to reach any other decision.

FORMAL DECISION

16. In exercise of the powers transferred to me, and for the reasons given above I hereby direct that the notice be varied by substituting in the passage beginning "NOTICE IS HEREBY GIVEN" the words "four months" for "two months"; by deleting altogether paragraph (iii) in Schedule 3; by deleting in Schedule 1 the words "edged red" and substituting the words "hatched black"; and by substituting the enclosed plan for that attached to the notice. Subject to these variations I dismiss your clients' appeals, uphold the notice and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Act of 1971 as amended.

RIGHT OF APPEAL

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

I am Gentlemen
Your obedient Servant



E D CREW CB DSO DFC MA FRAeS
Inspector

ENC

This is the plan referred
to in my decision letter
(ref T/APP/5408/C/82/7285
723/G4) dated 26 Jan 1985

PDMS

E D CREW CB DSO DFC MA
FRMS
Inspector

