C/252/MB/P

Department of the Environment and Department of Transport

Common Services

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Council Ref 4/48/82/039

Messrs Clarke Willmott and Clarke
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Your reference
407/85/5609-1-2

Our reference
T/APP/5365/C/83/2014/P6

Date
18 APR 1984

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEAL BY [redacted]
LAND AND BUILDINGS AT LITTLE BRINS, 156 BRIDGWATER ROAD, TAUNTON

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against an enforcement notice issued by the Taunton Deane Borough Council concerning the above land and buildings. I have considered all the representations made by you and by the Council and also those made by the West Monkton Parish Council and interested persons and I inspected the site on 13 March 1984.

2. a. The date of the notice is 7 June 1983.

b. The breach of planning control alleged in the notice is the making of a material change in the use of the land for the purpose of the repair and maintenance of motor vehicles.

c. The requirements of the notice are to discontinue the use for the repair and maintenance of motor vehicles with the exception of those motor vehicles privately owned and used by the occupiers of the dwelling situated on the land and known as Little Brins.

d. The period of complaince with the notice is 3 calendar months.

e. The appeal was made on grounds 88(2)(a).

3. No 156 Bridgwater Road is one of a pair of semi-detahced houses situated outside the settlement of Monkton Heathfield adjoining the main A38 road. At the rear of the houses is a saw-mill where timber fences and gates are manufactured. Apart from the adjoining industrial and residential premises, the appeal site is surrounded by open countryside, the nearest houses being about 200 m to the west and south. A building to the rear and to the side of the house is used as a garage for car repairs and is equipped for this purpose. It can accommodate only one vehicle. A gravelled area at the side of the house is available for parking. This area is screened from the lawn at the front by bushes. The business use is not advertised on the site and there were no vehicles being repaired or awaiting repairs when I visited the site. Noise from the adjoining saw-mill can be heard from the site. From the A38 road, vehicular access to the appeal site and saw-mill at the rear is shared. Speed is unrestricted on this open stretch of the A38.

4. I consider that the enforcement notice should have described the change of use of the site as a mixed use for residential purposes and for the repair and

maintenance of motor vehicles. If it had been my intention to uphold the notice, I would have amended it accordingly.

5. From my inspection of the site and its surroundings, and the representations made, I find that the main issue in this case is whether there are any exceptional circumstances which could justify allowing the present car repair use to continue despite the general presumption against new industrial and commercial development in this area.

6. I have noted the approved Structure Plan policy which states that "Industrial, warehouse and commercial development will not normally be permitted in open countryside". The existence of an old established industrial use on the adjoining land is not a justification for permitting any significant extension of that use in this inappropriate location in open countryside. There is a general presumption on highway grounds against development generating an increased use of an existing access on to this principal road where speed is unrestricted. Also visibility at the access does not meet the fully recommended standard to the south; it extends as far as 170 m compared with the standard of 225 m. Any intensive use of the appeal premises as a repair garage would have an adverse effect on the residential amenities of this and the adjoining residential property due to increased traffic, noise and disturbance. In my opinion there is an objection in principle on both planning and highway grounds to the permanent use of the site as a repair garage.

7. However, I consider that the advice in Circular 22/80 on the need to assist small businesses is relevant in this case. It seems to me that there is no strong objection to the present level of activity on this site. Neighbouring occupiers and the Parish Council support the appellant. The amount of noise, traffic and intrusion in the countryside generated by the appellant working on car repairs as a one man business is likely to be insignificant compared with that generated by the adjoining saw-mills, provided that hours are restricted to normal working hours. For the appellant you submit that he was made redundant 2 years ago and he does not yet have the resources to move his business to one of the industrial units suggested by the Council.

8. Bearing in mind the very small scale of business activity, I think that it would be reasonable to permit the mixed use to continue for a period of 2 years to allow the appellant to carry on his business while searching for more suitable premises for a permanent repair garage elsewhere. But in view of the strong planning objections to intensive use of the site for car repairs and the likelihood that the business would grow, it would be inappropriate to permit the use to continue for a longer period or on a permanent basis.

9. I have considered all the other matters raised in the representations but do not find them to be of sufficient importance to affect my decision.

10. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal, quash the enforcement notice, and grant planning permission on the deemed planning application for the mixed use of the site for residential purposes and for the purpose of the repair and maintenance of motor vehicles subject to the following conditions:

1. the use of the site for the repair and maintenance of motor vehicles shall cease on or before the end of April 1986;

2. the hours of operation of the business shall be restricted to 0800 to 1800 from Mondays to Fridays, 1800 to 1300 on Saturdays and there shall be no operations on Sundays, nor on public holidays;

3. there shall be no panel beating or paint spraying on the site;

4. no power tools or machinery other than portable hand tools shall be used;

5. repair and maintenance work shall not take place outside the garage building.

11. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulations other than Section 23 of the Town and Country Planning Act 1971.

RIGHT OF APPEAL AGAINST DECISION

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

I am Gentlemen
Your obedient Servant

Annette Seale

MISS A C SEALE MA MRTPI
Inspector

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT, 1971

ENFORCEMENT NOTICE

To: [redacted]

of:

WHEREAS:

1. You are the owner and occupier of land situate at Little Brins 156 Bridgwater Road in the Borough of Taunton Deane in the County of Somerset which with the exception of that part to the north west comprising the realigned section of the highway A38 is more particularly delineated on the attached plan and thereon edged red ("the Land")
2. The TAUNTON DEANE BOROUGH COUNCIL ("the Council") are the District Planning Authority and exercise the functions of the Local Planning Authority for the purpose of the provisions of Section 87 of the Town and Country Planning Act 1971 ("the Act")
3. It appears to the Council that after the 31st day of December 1963 there has been a breach of planning control in that the Land has been developed by the making of a material change in the use thereof to a use for the purpose of the repair and maintenance of motor vehicles without the grant of permission required in that behalf under Part III of the Act
4. The Council consider it expedient having regard to the provisions of the Structure Plan and to all other material considerations to issue this enforcement notice in exercise of their powers contained in Section 87 of the Act for the reasons set out in the Annex to this notice

NOW THEREFORE TAKE NOTICE that in exercise of the powers contained in Section 87 of the Act the Council HEREBY REQUIRE YOU within a period of three calendar months beginning with the date on which this notice takes effect to:-

Discontinue the use of the Land for the purpose of the repair and maintenance of motor vehicles with the exception of those motor vehicles privately owned and used by the occupiers of the dwelling situated on the Land and known as Little Brins

THIS NOTICE SHALL TAKE EFFECT subject to the provisions of Section 88(10) of the Act

ON THE SEVENTEENTH DAY OF JULY 1983

DATED THIS SEVENTH DAY OF JUNE 1983

Signed.....

Secretary and Solicitor

Municipal Buildings
Taunton, Somerset.

Ref: GW/PD11/A/169

YOUR ATTENTION IS DRAWN TO THE RIGHTS OF APPEAL AGAINST AN ENFORCEMENT NOTICE contained in Section 88 of the Act which are set out in the explanatory booklet "Enforcement Notice Appeals - a Guide to Procedure" enclosed herewith.

THE ANNEX hereinbefore referred to

Reasons why the Council consider it expedient to issue an Enforcement Notice in respect of the unauthorised use of Land at Little Brins, 156 Bridgwater Road, Taunton, Somerset for the purpose of the repair and maintenance of motor vehicles

(1) The Land is in open countryside where it is the policy of the Council to resist industrial warehouse and commercial development

(2) The unauthorised use of the Land detracts from the amenities of the occupiers of the adjoining dwellings by reason of increased noise and disturbance

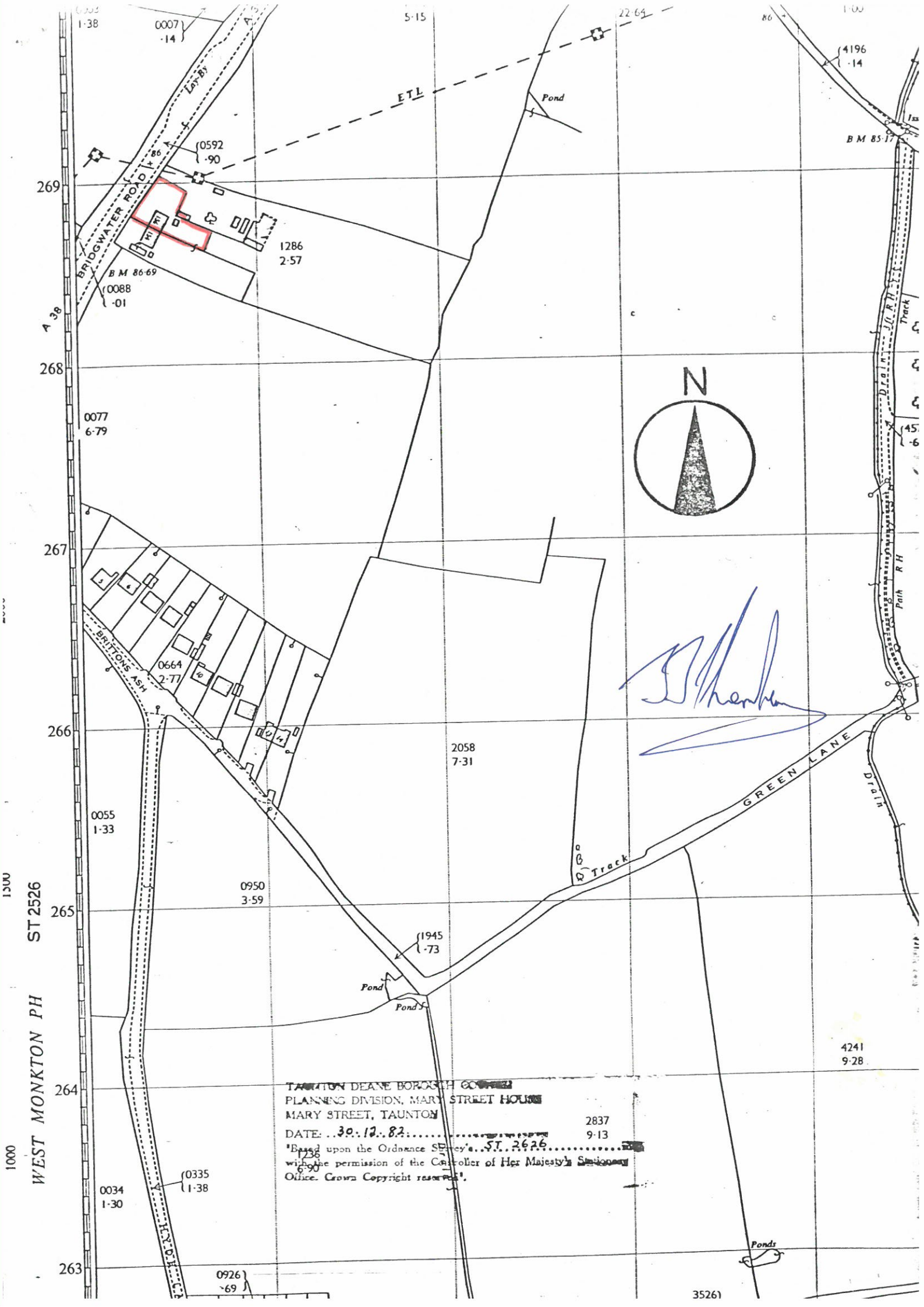
(3) The unauthorised use of the Land has resulted in an increase in the use of the existing access by vehicular traffic which together with additional conflicting traffic movements on the Principal Road A38 are prejudicial to road safety

this seventh day of June 1983

Signed.....

Secretary and Solicitor

GW/PJW/PD11/A/169



PLANNING DIVISION, MARY STREET HOUSE
MARY STREET, TAUNTON

DATE: 30.12.82

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