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# Appeal Decision

Site visit made on 29 October 2024

**by S A Hanson BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date 21 November 2024**

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**Appeal Ref: APP/V3120/C/24/3347894**

**Land North West of car park of the Red Lion Public House, Chapel Lane, Blewbury, Didcot, OX11 9QB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Ms Annabel Cochrane against an enforcement notice issued by Vale of White Horse District Council.
  - The notice was issued on 30 May 2024.
  - The breach of planning control as alleged in the notice is *Without planning permission, the installation of six screw pile foundations into the ground for the purpose of an OOD House to sit on (sited in the indicative location as shown edged blue on the Plan): the installation of foul drainage and water utilities on the Land as required for the OOD House.*
  - The requirements of the notice are to:
    - (i) Remove from the Land the six, screw pile foundations installed to support the OOD House (in the approximate location shown edged blue on the Plan) and reinstate the Land to its former condition prior to the breach of planning control occurring.
    - (ii) Remove from the Land any foul waste and water pipes which are connected to the OOD House and reinstate the Land to its former condition prior to the breach of planning control occurring.
    - (iii) Remove from the Land any and all waste and materials resulting from compliance with steps (i) to (iv) above.
  - The period for compliance with the requirements is 6 (six) months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (e), (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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## Decision

1. The appeal is allowed and the enforcement notice is quashed.

## Preliminary Matters

2. An appeal against the material change of use of the land to a mixed use comprising a woodland copse in connection with Hall Barn, ancillary residential use connected with the adjoining Public House, and commercial storage for the adjoining Public House was submitted simultaneously by the appellant. This is the subject of a separate decision ref: APP/V3120/C/24/3347895.

## The appeal on ground (e)

3. This ground of appeal is that copies of the notice were not served as required by section 172 of the Act. Section 172(2) provides that a copy of the notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land, including mortgagees, tenants

and sub-tenants, being an interest which, in the opinion of the LPA, is materially affected.

4. The appellant's claim is that The Red Lion is not in their ownership, nor is it their place of residence. The enforcement notice has therefore been incorrectly served and is not in accordance with part 6 of section 172 of the Act given that it was served on a number of people, with incorrect ownership details and the notice was not clear about which party the notice was being served on.
5. The notice was served on Ms Cochrane at Hall Barn and The Red Lion, the 'owner' and the 'occupier' of both Hall Barn and The Red Lion, and Santander UK PLC. The Council's Land Registry search identified Tengate Limited as the freehold owner of The Red Lion whom Ms Cochrane is the sole director, with the registered office at Hall Barn. The witness statement prepared by Council officers confirms that Ms Cochrane accepted service on behalf of all parties, including the 'owner' of The Red Lion.
6. Section 329 of the Act sets out the legal framework for the service of a notice. Section 329(2) states that where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if— (a) it is addressed to him either by name or by the description of "the owner" or, as the case may be, "the occupier" of the premises (describing them) and is delivered or sent in the manner specified in subsection (1)(a), (b) or (c); or (b) it is so addressed and is marked in such a manner as may be prescribed for securing that it is plainly identifiable as a communication of importance and— (i) it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or (ii) it is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.
7. I am satisfied that the council served the notice correctly and the appellant has submitted their appeal against the notice within the timeframe and has had an opportunity to argue their case fully during the appeal proceedings. It cannot, therefore, be said that the appellant has suffered any substantial prejudice.
8. For the reasons given above, I conclude that the appeal on ground (e) fails.

### **The appeal on ground (c)**

9. In an appeal on this ground the appellant must demonstrate that the matters alleged, if they occurred, do not constitute a breach of planning control. The burden of proof in ground (c) is upon the appellant, and the test of the evidence is on the balance of probabilities.
10. The OOD house (the structure) is mounted on six removable ground screws and connected to water, drainage and electricity provided by The Red Lion, the public house that adjoins the land. In my decision concerning whether there had been a material change of use of the land I concluded that the siting of the structure and its use did not amount to development as defined in s55(1) of the Act for which planning permission would be required.

11. Notwithstanding that decision, it is not unusual for the attachment of services such as these to form part of the facilitating works for the siting of mobile structures. Furthermore, in this case, the ease of disconnection and the extent and degree of the works are not such that they would fall within the definition of development in their own right. Had the appeal against the use of the land for the siting of the structure failed, the ground screws and utility connections would serve no purpose and their removal could have been a requirement under that notice.
12. For the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed. Consequently, the appeal on ground (a) and the deemed planning application, and ground (f) do not fall to be considered.

*S A Hanson*

INSPECTOR