Appeal Decision

Inquiry held on 17th December 2002 and 13th and 27th March 2003

Site visit made on 27th March 2002

2446
2445

by Dennis Bradley BSc(Econ) DipTP MRTPI

an Inspector appointed by the First Secretary of State

Date

7 MAY 2003

Appeal Ref: APP/J3910/C/02/1089651 (Notice 1)
Lakeside Park, Kington Lane, Kington St Michael, Chippenham, Wiltshire

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by the Stinchcombe Family against an enforcement notice issued by North Wiltshire District Council.
- The Council's reference is 01.00153.EMAJ.
- The notice was issued on 18th March 2002.
- The breach of planning control as alleged in the notice is without planning permission, change of use of land from a use for agriculture to a mixed use for agriculture, the stationing of residential caravans and storage of machinery.
- The requirements of the notice are to: (a) cease the use of the land for the stationing of residential caravans and storage of machinery, (b) remove all residential caravans from the land, together with all soil pipe connections, and all jacks, plinths or other supports for the caravans, and (c) remove all machinery, vehicles, vehicle parts, cages, kennels and other enclosures from the land, together with all domestic items stored or stationed on the land including washing lines.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in Section 174(2)(a), (c) and (g) of the 1990 Act.

Summary of Decision: The appeal is allowed, the notice is quashed and planning permission is granted in the terms set out in the Formal Decision below.

Appeal Ref: APP/J3910/C/02/1089652 (Notice 2)
Lakeside Park, Kington Lane, Kington St Michael, Chippenham, Wiltshire

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by the Stinchcombe Family against an enforcement notice issued by North Wiltshire District Council.
- The Council's reference is 01.00153.EMAJ.
- The notice was issued on 18th March 2002.
- The breach of planning control as alleged in the notice is without planning permission, carrying out unauthorised engineering works on the land comprising excavation works to form a lake and the construction of two earth bunds and additional contouring work.
- The requirements of the notice are (a) remove the earth bunds constructed on the land and restore the areas to the original natural contours, (b) re-instate the area which has been excavated to form a lake on the land to original levels using only overburden materials dug from the hole, or other inert materials if necessary, (c) cover the re-instated overburden with subsoil to a minimum of 300 mm overlain by topsoil to a minimum of 100 mm to restore the disturbed land to a condition suitable for agricultural use.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in Section 174(2)(a), (b), (c) and (f) of the 1990 Act.

Summary of Decision: The appeal succeeds in part and permission for that part is granted but otherwise the appeal fails and the notice as corrected is upheld as detailed in the Formal Decision below.

Procedural Matters

1. At the first day of the Inquiry the appellants requested an adjournment to make arrangements for legal representation. At the second day of the Inquiry the appellants withdrew the appeal on ground (b) in relation to Notice 2 and both appeals on ground (c).

The site and its surroundings

2. The appeals concern a site of about two hectares of land situated immediately to the south of the M4 motorway and to the east of Kington Lane. Most of the site is at a lower level than the motorway, which is raised on an embankment. However, since the land rises to the south, the southern boundary of the site is at a similar level to the motorway. At the north-eastern corner of the site is a large workshop containing items of agricultural machinery, adjoining which is an earth bund some three metres in height. Along part of the western boundary of the site is a lower earth bund, and there is a smaller earth bund adjacent to the entrance to the site at its south-eastern corner. Between the workshop and this final bund is an area of hardstanding on which are three caravans. The site is divided into two parts by a post and rail fence. The larger western part is mainly laid to grass on which several sheep and goats are grazed. Within this area is a small lake. I understand that the bund along the western boundary was formed from the material excavated to create the lake. Within the eastern part of the site are some cages containing wild birds. The site has the benefit of mains drainage but at present has no permanent power supply. Electricity is obtained by the use of a generator.

3. The appellants query whether the development that was the subject of Notice 2 was in fact an engineering operation. I note that the decision in the case of Fayrewood Fish Farms Ltd v Secretary of State for the Environment [1984] JPL 267 made clear that an engineering operation could be one which would generally be supervised by an engineer, but that it was unnecessary that it should have actually have been so supervised. In my view the formation of the lake and the bunds along the western and northern boundaries of the site was clearly an engineering operation by reason of the scale of the works concerned. However, I have some sympathy with the appellants' view that the small mound by the entrance to the site was not the result of such an operation. Moreover, the Council appears to be most concerned about the bunds on the western and northern boundaries. In this respect I consider that the notice requires some correction to make clear the nature of the allegation and the steps required to remedy the breach. I accordingly propose to correct the notice by removing the words "and additional contouring work" at the end of the description of the breach and substituting the words "on the western and northern boundaries of the site". In my view such a correction could be made without any injustice to the parties.

4. The site is located in open countryside between the villages of Stanton St. Quinton to the north and Kington St. Michael to the south, about five kilometres to the north of Chippenham. To the south-west of the site is Upper Swinley Farm, which comprises the original substantial farmhouse and several further dwellings which have been created by the conversion of barns around the farmhouse. I understand that these dwellings are Grade II listed buildings. The track which serves Upper Swinley Farm runs close to the southern

boundary of the appeal site, although the track and the appeal site are separated by an area of land on which trees have recently been planted.

5. I was informed that there is a right of way across the appeal site to a field to the west that is owned by one of the occupiers of Upper Swinley Farm. Concern was expressed that the activities of the appellants restrict the possible exercise of that right of way. However, in my opinion that is not a matter on which I can express a view, and must be the subject of civil legal proceedings if it cannot be resolved by any other means.

The appellants

6. The caravans are occupied by the Stinchcombe family. This comprises Kevin (aged 46) and Deborah Stinchcombe and their three children - Katie (aged 21), James (aged 19), and Harry (aged 12), together with James's partner Rebecca (aged 19) and their two children, Leah (aged 2) and Callum (aged 11 months). The family occupied the appeal site in about June 2001 having spent several years in various forms of temporary accommodation following the repossession of their home in Kington Langley. During this period Kevin and Deborah Stinchcombe were made bankrupt. Mr and Mrs Stinchcombe had previously run an animal sanctuary and acted as animal consultants on film and television productions. The appeal site is owned at present by Katie and James, but Harry will acquire part of the title on his 18th birthday. James Stinchcombe earns a modest living from agricultural contracting but otherwise the family has no sources of income other than state benefits.

7. At the second day of the Inquiry I was advised that Kevin Stinchcombe's mother was a gypsy, although this information had not previously been disclosed to the Council. However, the appellants do not claim gypsy status, as defined by Section 24 of the Caravan Sites and Control of Development Act 1960 as amended by Section 80 of the Criminal Justice and Public Order Act 1994.

Planning History

8. In 1989 the Council granted planning permission for the formation of a vehicular access from Kington Lane in the south-eastern corner of the site. In 1992 planning permission was granted for the erection of a general-purpose agricultural building and hardstanding in the north-eastern corner of the site.

9. In August 2001 Mrs Deborah Stinchcombe submitted a planning application for the use of the site as a caravan site with three caravans and agricultural contractor's yard, together with works involving the erection of gates, formation of an acoustic barrier and construction of a wildlife pond. This application was refused under delegated powers in October 2001. The Council originally authorised injunctive action against the appellants' occupation of the site but resolved to discontinue the proceedings in the light of the Court of Appeal's judgement in the case of South Buckinghamshire District Council v Porter. In February 2002 the Council considered a report from the Planning Officer on possible enforcement action. The Planning Officer recommended that in view of the exceptional circumstances of the case and undertakings given by the appellants, enforcement action should not be taken and that a further planning application be invited to enable the Council to consider the grant of a temporary planning permission. However, the Council resolved that enforcement action should be taken.

The appeals on ground (a)

10. An appeal on ground (a) deals with the issue of whether planning permission should be granted for what is alleged in an enforcement notice. Section 54A of the 1990 Act requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. The starting point for the consideration of the ground (a) appeals must accordingly be the development plan. In the present case this comprises the Wiltshire County Structure Plan 2011 and the North Wiltshire Local Plan 2001, both of which were adopted in January 2001. The Council has drawn my attention to policies DP1, DP4 and DP15 of the Structure Plan and to policies RH16, RH17, RH21 and RC10 of the Local Plan.

11. Policy DP1 is a general policy which seeks to prioritise sustainable development. Item 6 of the policy seeks to minimise the loss of countryside. Policy DP4 seeks to concentrate new development at existing towns and main settlements. Policy DP15 states that development in the open countryside will be strictly controlled. Policy RH16 deals with mobile homes and residential caravans. It states that outside the framework of a settlement such proposals are only acceptable in connection with the essential needs of agriculture or forestry. Policy RH17 deals with gypsy sites, while policy RH21 deals with affordable housing on rural exception sites. Finally, policy RC10 is a general countryside protection policy that requires development to respect the topography and character of the landscape.

12. I share the appellants' view that the principal issues in the ground (a) appeals are:

    (a) the effect of the development on the character and appearance of the area (Notices 1 and 2).

    (b) whether by reason of road traffic noise the site is unsuitable for residential use (Notice 1).

    (c) whether personal circumstances are sufficient to justify a departure from development plan policies DP15 and RH16 (Notice 1).

Effect on character and appearance

13. With regard to Notice 1, the appellants accept that the appeal proposal is not justified by agricultural or forestry needs, and accordingly contravenes relevant development plan policies for the control of new development in the open countryside. However, they emphasise that although the countryside should be protected for its own sake, the landscape around the appeal site is not recognised as being of any special quality and that the site is not within the Green Belt. Moreover, they argue that views of the site from the motorway are generally fleeting glimpses from vehicles travelling at high speeds. They suggest that the introduction of mounding and planting around the caravans, together with their repainting in a dark colour, would mitigate any harm to the landscape. Finally, they emphasise that the caravans are seen in the context of the permitted agricultural building and hardstanding.

14. I observed at my visit to the site that the caravans are largely screened in views from locations to the east of the site, such as from Kington Lane and from that part of the motorway, by the substantial planting along the lane. However, they are clearly visible in views from the west - from the motorway and from the rear gardens of several of the dwellings at Upper Swinley Farm, and from the south from the track which serves Upper

Swinley Farm. Although views from the motorway are likely to be fleeting, such views are available to large numbers of people. I consider that the retention of the caravans and the domestic paraphernalia associated with their use would clearly harm the rural landscape. The mitigation measures proposed by the appellants would reduce to some extent the visual impact of the caravans. However, while painting the caravans would have an immediate impact, landscaping could take some years to provide effective screening, as is shown by the open appearance of the adjoining site on which planting was undertaken some years ago.

15. It was suggested in the closing submissions on behalf of the appellants that the number of caravans could possibly be reduced from three to two. However, in my view such a proposal may well not be feasible. James Stinchcombe, his partner and their two young children clearly require separate accommodation, and in my view it would be difficult to accommodate the remaining members of the family within one small caravan. Moreover, the family made clear that they did not wish to be separated, and therefore I am not able to consider a situation in which, for example, James and Rebecca and their children are obliged to leave the site, but other family members are allowed to remain. I have accordingly not considered this suggestion.

16. I now turn to Notice 2 regarding the lake and the earth bunds. The Council made clear at the Inquiry that its concerns regarding the lake are not with the development itself but with the use of the lake as a residential amenity, including the placing of domestic items around it. I understand this concern. However, the Council accepted that if the appeal against Notice 1 were unsuccessful, it would be unreasonable to require the removal of the lake as such features are typical of the countryside. Moreover, even if that appeal was to succeed, and the residential use of the mobile homes was to continue, I do not consider that the lake would have to be removed. In my view it would be possible by the imposition of appropriate conditions to restrict domestic use of the site to its eastern part, which excludes the lake.

17. I share the Council's opinion that the two bunds which are the subject of the notice, i.e. those on the western and northern boundaries, provide no useful service as screening for the caravans or by acting as an acoustic barrier. I agree with the Council that they are visually intrusive and harm the rural landscape. Therefore, in my view there is no strong case for their retention.

Noise

18. With regard to the noise issue, the Council notes that external noise readings taken at the site produce an L_{Aeq} of 66.1 dB, placing it within Category C of the Noise Exposure Categories set out in Planning Policy Guidance Note 24: Planning and Noise (PPG24). Category C areas are defined in PPG24 as those where planning permission should not normally be granted for residential development, but where if it is given conditions should be imposed to ensure a commensurate protection against noise. Internal noise levels within the caravans ranged from 40dB L_{Aeq} with windows shut to 48 dB L_{Aeq} with windows open. The Council also notes that recent guidance from the World Health Organisation suggests that in outdoor living areas such as gardens it is desirable that the steady noise level does not exceed 50 L_{AeqT}dB, and that 55L_{AeqT}dB should be regarded as the upper limit. For reasonable resting/sleeping conditions the noise within living rooms should not exceed 40L_{AeqT}dB and within bedrooms it should not exceed 35L_{AeqT}dB.

19. In response the appellants emphasise that they have lived at the appeal site for nearly two years and do not find the noise from the motorway to be unduly annoying or to have resulted in sleep disturbance. They refer to the decision of one of my colleagues in a similar case where, notwithstanding noise from military aircraft and helicopters, planning permission was granted for the retention of a mobile home.

20. In dealing this matter, it is necessary to consider what steps could be taken to improve the present situation. I have noted that both parties accept that the existing bunds provide little acoustic screening. Moreover, because of the topography of the site it would not be possible to modify the bund adjoining the motorway to provide such screening without a significant increase in the height of the bund, which would further harm the landscape. In addition, modifications to the caravans to provide additional sound insulation and thereby reduce noise levels within them appear to be problematic. Therefore the imposition of a planning condition to require such measures would not seem to be appropriate.

21. At my visit to the site it was apparent that external noise levels are higher than many people would find to be acceptable within a garden to a dwelling. However, the appellants clearly do not have significant concerns on this point. I am also conscious that they do not seek planning permission for a permanent dwelling, since this is a case where they have indicated that the grant of a temporary planning permission would be acceptable. In such a situation I have concluded that notwithstanding the relatively high degree of external noise on the site, it would be unreasonable to withhold planning permission for noise reasons alone.

Personal circumstances

22. The appellants raised four areas of personal circumstances, i.e. health, education, and human rights including Mr Kevin Stinchcombe's ethnic background, which in their opinion are material considerations. I will deal with each of these in turn.

23. With regard to health, I was given considerable information about the medical history of members of the family which I do not consider it necessary to set out in detail. The situation could be summarised by stating that Kevin Stinchcombe suffers from several physical problems and has a severe mental health condition, that Katie Stinchcombe has learning difficulties and co-ordination problems, and that Callum Stinchcombe has a serious heart condition that will in time necessitate major surgery. Evidence was also given that because of his medical condition Kevin Stinchcombe would find it difficult to live within an urban setting.

24. I do not underestimate the difficulties which these problems have created for the family. The lack of stability in their place of residence must have further created great stress. However, with the exception of Kevin Stinchcombe, there is no evidence that the medical circumstances of the family require that they live in a countryside location. It is clear that they would benefit from a more settled pattern of life. Nevertheless, while some stability would be obtained if a grant of temporary planning permission allowed them to remain at the appeal site, it could also be provided if the family were re-housed within a built-up area.

25. I now move to education. Katie Stinchcombe attends Chippenham College, and Harry Stinchcombe attends Abbeyfields School in Chippenham. I understand from Mrs Stinchcombe's evidence and from the letter provided by Chippenham College that Katie will shortly complete her education. Accordingly my considerations can only relate to

Harry. No evidence was given that the relocation of the family within the District would harm Harry's education, and indeed it was indicated by Ms Van Skoyek that such a move would accord with his own preferences. Therefore, in my opinion there is no strong case for suggesting that education is a material consideration in the appeal.

26. With regard to the gypsy issue, the evidence regarding Mr Stinchcombe's ethnic background was not challenged. However, the appellants accepted that Mr Stinchcombe did not have gypsy status, since no evidence was given to suggest that he had ever adopted a nomadic way of life. Moreover, the family does not appear to have attached great weight to this matter in the past, since it was not raised until the Inquiry had commenced. I have noted the appellants' reference to the requirement of PPG3 (paragraph 13) that local authorities should assess the housing needs of a range of groups, including travellers and occupiers of mobile homes, and to the obligations resulting from the Framework Convention for the Protection of National Minorities (FCPNM). However, it appears to me that the Stinchcombe family's decision to move to the appeal site did not reflect a wish to undertake or to continue a particular way of life. They have not identified themselves as part of a national minority. It seems clear that their action was mainly a response to difficult economic circumstances but was in part also a result of Mr Kevin Stinchcombe's ill health. I therefore give little weight to this issue.

27. I now turn to other matters regarding human rights. The Human Rights Act 1998 incorporated the European Convention on Human Rights into domestic law, and the appellants make reference to several Articles of the Convention. They first raise the question of Article 2, which concerns the right to life. This Article not only prevents the state from taking life intentionally (except where a crime attracts the death penalty by law), but also imposes a positive obligation to safeguard life. The appellants' submission on this matter rests on the medical evidence that there would be a significant risk of self-harm to one of the family if they were obliged to vacate the site. In addition they raise Article 8, which deals with the right to respect for private and family life. The appellants consider that an enforced move away from the site would interfere with such rights. They note that in deciding whether such an interference is necessary to pursue a public interest, consideration must be given as to whether it is proportionate to the aim or aims pursued.

28. The Council suggests that the incident of self-harm which is feared results from a concern that if the family was required to leave the site, it would be turned onto the roadside or placed into temporary accommodation. However, in the Council's view the family is likely to be re-housed in permanent local authority accommodation which is suitable to its particular needs. Moreover, if the family were placed in accommodation which it considered to be unsuitable, the procedures under the Housing Act 1986 would allow for appeals to be made against such a decision. In this respect the Council refers to the judgement in the case of Begum v Tower Hamlets Borough Council (2003) 2 WLR 388, where the House of Lords held that the procedures under the Housing Act are compliant with Article 6 of the Convention. In the Council's view the removal of the family from the site is the only available measure to achieve its planning objectives and would not have an excessive or disproportionate impact on their interests.

29. I deal initially with Article 2. I understand the case law indicates that in applying Article 2 the decision maker should do all that could be reasonably expected to be done to avoid a real and immediate risk to life. The appellants provided evidence from a consultant psychiatrist and others with knowledge of these matters which indicates that there is a high

risk of self-harm if the family were obliged to vacate the site. In my view such evidence must be given significant weight. Moreover, in my opinion the process of moving the family to permanent accommodation elsewhere is likely to be more protracted than the Council suggests. Even if accommodation which is suitable to the family's particular needs can eventually be found, thereby providing long-term stability for the family, it is likely that they will be obliged to live in some form of temporary accommodation for a period. I am concerned that this may result in an incident of self-harm.

30. With regard to Article 8, the dismissal of the appeal regarding Notice 1 would clearly result in an interference with the Stinchcombe's home and private and family life since they would be required to vacate the site. However, that interference must be balanced against the public interest in pursuing the legitimate aims stated in Article 8 particularly the economic well-being of the country, which includes the preservation of the environment. It is therefore necessary for me to consider whether the means set out in the notice to achieve this legitimate aim are disproportionate, i.e. whether the objections to the development can be overcome by measures which would have a less intrusive effect on the interests of the appellants. These could include, for example, the granting of a temporary planning permission and/or the imposition of other conditions.

31. In my opinion there is a clear conflict between the retention of the caravans and the policies of the development plan regarding development in the countryside. I also understand the concern of local residents and the Council that an undesirable precedent might be set if the appeal were to be allowed. However, each proposal must be considered on its individual merits. This is an unusual case where there is strong evidence on medical grounds that it would be desirable to allow the family to remain on the appeal site. Moreover, the appellants have accepted that any permission for the continuation of the present use could be made personal to them and be for a temporary period not exceeding five years, thereby avoiding the creation of a permanent residential use. The Council would have the opportunity to review the situation at the end of this period if the appellants wish to remain on the site.

32. It would also be possible by the imposition of conditions to secure the undertaking of measures to reduce the visual impact of the development, although I do not believe that such measures are likely to be wholly effective. At the Inquiry the Council proposed a number of conditions and the appellants made alternative suggestions. A limitation on the numbers of caravans would control any future increase in the intensity of the use. Similarly a restriction on the area where the residential use takes place would avoid its extension to the western part of the site, which I note is a strong concern for local residents. A series of conditions regarding landscaping would ensure that greater screening is provided around the eastern part of the site. A condition regarding the storage of agricultural machinery would avoid the excessive storage of such machinery on the land, particularly in prominent parts of the site. Finally, a condition regarding the re-painting of the caravans would minimise their impact on the landscape.

33. The Council suggested that a condition requiring the submission of a scheme for noise mitigation measures should also be imposed. However, in my view there was no strong evidence to indicate that such measures would be effective. I accordingly consider that the imposition of such a condition would not be appropriate.

34. I have therefore concluded that the requirements of Notice 1 are disproportionate, and that there are material circumstances regarding health and human rights which, together with the possibility of imposing appropriate planning conditions, justify the granting of planning permission for the continuation of the existing use for a temporary period. The appeal on ground (a) accordingly succeeds. However, with regard to Notice 2, while I see no objection to the retention of the existing lake, I consider that the retention of the bunds would not accord with the countryside policies of the development plan. A split decision is accordingly necessary.

The appeal on ground (f)(Notice 2)

35. An appeal on ground (f) deals with the issue of whether the steps required by the notice are excessive and lesser steps would be sufficient. In view of my decision to grant planning permission for the retention of the lake, it is not necessary for me to consider the requirements of the notice in this respect. However, with regard to the two bunds in my view there are no lesser steps than those specified in the notice which would remove the present harm to visual amenity which results from the bunds. I accordingly consider that the appeal on this ground must fail.

The appeal on ground (g)(Notice 1)

36. An appeal on ground (g) deals with the issue of whether the period given to comply with the notice is sufficient. However, in view of my decision on the ground (a) appeal it is not necessary for me to consider this matter.

Conclusions

37. With regard to Notice 1, for the reasons given above and having regard to all other matters raised, I consider that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

38. Turning to Notice 2, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed in part only. Accordingly I shall grant planning permission for one part of the matter that is the subject of the notice, but otherwise I shall uphold the notice as corrected and refuse to grant planning permission on the other part.

Formal Decision

Appeals Re Lakeside Park, Kington Lane, Kington St Michael, Wiltshire

Notice 1

39. In exercise of the powers transferred to me, I allow the appeal and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under Section 177(5) of the Act as amended for the development already carried out, namely the change of use of land from a use for agriculture to a mixed use for agriculture, the stationing of residential caravans and storage of machinery on land at Lakeside Park, Kington Lane, Kington St Michael, Wiltshire referred to in the notice subject to the following conditions:

    1) The use hereby permitted shall be carried on only by the Stinchcombe family (i.e. those persons listed in paragraph 6 of this Decision) and shall be for a limited period

being the period of five years from the date of this decision, or the period during which the premises are occupied by the above mentioned persons whichever is the shorter. At the end of the period all residential caravans and agricultural machinery, other than that in use on the appeal site, should be removed from the site.

2) No more than three caravans shall be stationed on the site at any one time.

3) No caravans or domestic paraphernalia associated with the use of caravans shall be placed outside the area cross-hatched on the plan attached to this Decision.

4) Within two months of the date of this Decision a scheme of hard and soft landscape works shall be submitted in writing to the local planning authority. These details shall include the location of the caravans and the areas to be used for vehicle parking and for the open storage of agricultural machinery; a scheme of planting and improvements to existing hedgerows around the site; the provision of planting along the existing fence between the caravans and the lake; and the provision of planting around the caravans, parking area and agricultural machinery storage area.

5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out within the first planting season following the grant of this planning permission or in accordance with a programme to be agreed with the local planning authority.

6) If within a period of two years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

7) Within three months of the date of this Decision, the caravans shall be painted in accordance with details to be submitted to and approved in writing by the local planning authority.

8) Within three months of the date of this Decision, all plant and machinery not stored within the existing workshop or on the area identified in the scheme required by condition 4 shall be removed from the site.

Notice 2

40. In exercise of the powers transferred to me, I correct the notice by removing the words "and additional contouring work" at the end of the description of the breach and substituting "on the western and northern boundaries of the site". I allow the appeal insofar as it relates to the lake, and I grant planning permission on the application deemed to have been made under Section 177(5) of the Act as amended, for the creation of the lake.

41. I dismiss the appeal and uphold the enforcement notice as corrected, insofar as it relates to the construction of the two earth bunds on the western and northern boundaries of the site, and I refuse planning permission in respect of that development on the application deemed to have been made under Section 177(5) of the Act as amended.

Information

42. A separate note is attached setting out the circumstances in which the validity of either of these decisions may be challenged by making an application to the High Court.

43. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

44. An applicant for any approval required by a condition attached to this permission has a statutory right of appeal to the Secretary of State if that approval is refused or granted conditionally or if the authority fails to give notice of its decision within the prescribed period.

D. Bradley

Inspector

Plan

This is the plan referred to in my decision dated:

by Dennis Bradley BSc(Econ) DipTP MRTPI

Land at: Land at Kington Lane, Kington St Michael, Chippenham, Wiltshire

Reference:T/APP/J3910/C/02/1089651 & 1089652

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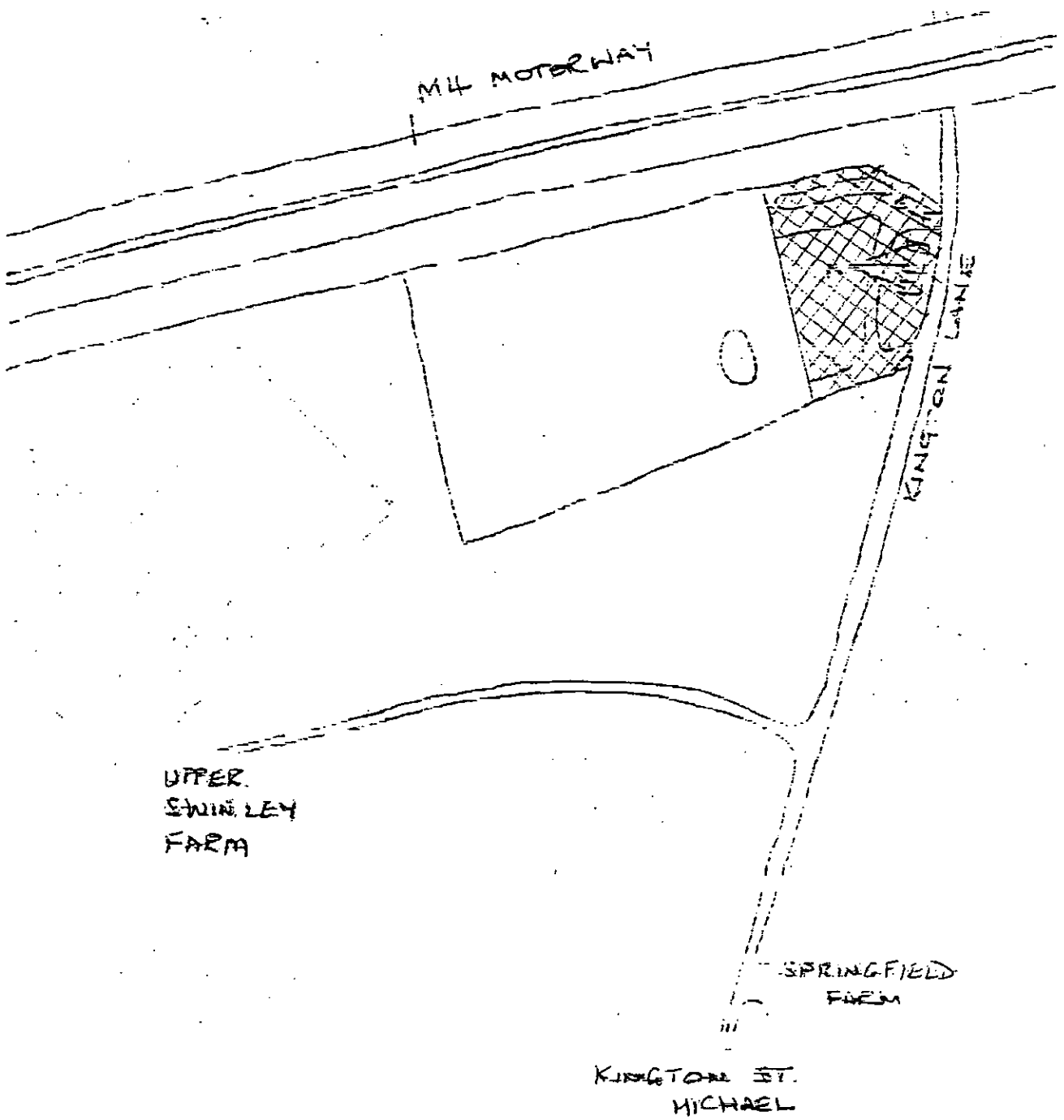
Scale:

7 MAY 2003



APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Peter Wadsley	Counsel, instructed by North Wilts District Council
He called	
Mr Simon Chambers	LPC(Trull) Ltd on behalf of North Wiltshire District Council

FOR THE APPELLANT:

Mr Stephen Cottle	Counsel, instructed by Dr Angus Murdoch, The Community Law Partnership, 3rd Floor, Ruskin Chambers, 191 Corporation Street, Birmingham B4 6RP
He called	
Mrs Debbie Stinchcombe	Appellant
Mr Rawdon Gascoigne BA MRTPI	Senior Consultant, Emery Planning Partnership, 4 South Park, Hobson Street, Macclesfield, Cheshire SK11 8BS
Ms Susan Van Skoyek BSc MSc	Clinical Director, TWP Counselling Psychology, 10 Harley Street, London W1 & 6 Parkway, Chelmsford, Essex
Ms Susan Alexander	Friends, Families and Travellers Advice & Information Unit, Community Base, 113 Queens Road, Brighton, East Sussex BN1 3XG

INTERESTED PERSONS:

Mr Gerard Elms	1 The Orchard, Kington St Michael
Mr Ian Kirwan	Swallow Barn, Upper Swinley Farm, Stanton St Quinton
Mrs Belinda Ward	Tithe Barn, Upper Swinley Farm, Stanton St Quinton
Cllr Jane Scott	NWDC/WCC
Cllr Peter Green	NWDC
Mr Gary Pennington	Barn 2, Upper Swinley Farm, Stanton St Quinton

DOCUMENTS

Document	1	List of persons present at the inquiry
Document	2	Notification and circulation
Document	3	Letters from interested persons
Document	4	Appendices to Mrs Stinchcombe's proof
Document	5	Appendices to Mr Gascoigne's proof
Document	6	Appendices to Ms Alexander's proof
Document	7	Appendices to Mr Chamber's proof
Document	8	Appellants' comments on proposed conditions
Document	9	Appeal decisions introduced by the parties
Document	10	Report on the case of R (on the application of Samaroo) v Secretary of State for the Home Department (2001)
Document	11	Report on Runa Begum v Tower Hamlets London Borough Council (2003)

Document	12	Report on Chapman v United Kingdom (2001)
Document	13	Report on Basildon District Council v Secretary of State for the Environment, Transport and The Regions (2000)
Document	14	Extract from the Housing Act 1996
Document	15	Copies of Local Plan policies RH17 and RH21