



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117-987-8927
Switchboard 0117-987-8000
Fax No 0117-987-8769
GTN 1374-8927

DM
AM
SB

Mr P Murray
71 Mucklow Hill
Halesowen
WEST MIDLANDS

Your Ref:

Our Ref:

T/APP/A1910/A/94/243787/P5

DEPARTMENT OF THE ENVIRONMENT DACORUM BOROUGH COUNCIL	
Date of Ref.	11 APR 1995
Ack.	
12 APR 1995	
Comments SECTION 78 AND SCHEDULE 6	

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990,
APPEAL BY MR P C AND MRS D A HALL
APPLICATION NO: 4/0020/94

- I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of the Dacorum Borough Council to refuse planning permission for the extension of a temporary approval for the stationing of a mobile home at Verfield, London Road, Markyate. I held a local inquiry into the appeal on 7 March 1995.
- Permission is sought to continue the siting of a mobile home on open land outside the settlement limits. In 1989 a five year temporary planning permission was granted, on appeal and subject to a number of conditions, for the stationing of the home in connection with proposals for the use of the land for intensive rabbit production (Ref: T/APP/A1910/A/88/102379/P6). The mobile home was sited on the land but in the event the rabbit business did not prove viable. The appellants wish to retain the mobile home in connection with an alternative enterprise engaged in the rearing of game birds. I therefore determine the appeal under powers in Section 79(4) of the 1990 Act for the continued siting of a mobile home in connection with a game bird rearing business.
- From all that I have seen, heard and read I consider that the main issues are: whether the retention of the mobile home would accord with approved and emerging planning policies for the area; and, whether any harm caused to the rural environment and policy objectives is outweighed by other material considerations.
- Strategic policies in the approved Hertfordshire County Structure Plan aim to conserve and improve the landscape, and to protect and enhance existing settlements and the essential character of the county's urban and rural areas. The adopted Dacorum District Plan (1984) states that, within the rural area beyond the Green Belt, planning permission will not be granted, except in very special circumstances, for development other than



for agricultural, forestry, or leisure purposes or for other uses appropriate to a rural area, with particular regard being had to the likely effects of development on the landscape and environment. The aims of these policies are carried forward in broadly similar policies in the emerging Dacorum Borough Local Plan which has reached an advanced stage.

5. By 1990 the plastic tunnels originally proposed for the housing of rabbits had gone out of production and the Council granted temporary planning permission for two timber buildings as an alternative. In 1994 the Council renewed this permission knowing that the nature of the business had changed. The Council state that, in the light of a House of Lord's ruling, the keeping and rearing of game birds, for sport rather than for the production of food, is not an agricultural activity¹ and at the inquiry this was not disputed. Notwithstanding this, the Council accepts that the use of the appeal site land and buildings for game bird rearing is similar in kind to an agricultural use and that it is appropriately located in a rural area. Both parties agreed that, in the absence of any specific policy concerning this type of use, it was reasonable to consider the proposal against national guidance in Planning Policy Guidance Note (PPG) 7 relating to agricultural and forestry dwellings.

6. This guidance is echoed in the emerging local plan which contains a policy stating that in the rural area permission for agricultural dwellings will only be granted where: there is a functional need for additional residential accommodation; the enterprise is viable and sustainable; the impact of the dwelling on the amenity and character of the countryside is minimised by controlling its size, siting and landscaping. A separate policy for residential caravans and mobile homes gives scope for the viability of a new agricultural unit to be tested by temporary location of a residential caravan on the land for a period not normally exceeding three years.

7. Annex E to PPG 7 states that it is essential that all planning applications for new agricultural dwellings are scrutinised thoroughly with the aim of detecting attempts to abuse the concession that the planning system makes for such dwellings. I note that the business has now been operating for two years and the Council's witnesses agreed that the present application was not an attempt to circumvent the planning system.

8. The annex also states that it will be important to establish that the needs of the enterprise require one or more of the people engaged in it to live nearby. The rearing cycle for pheasants is between April and August, when there is a need for daily inspection for health, security, the collection of eggs and feeding. All year round tasks are concerned with the care and maintenance of the stock (laying) birds and the maintenance of buildings, equipment and fencing. In the light of the projected

¹ Earl of Normanton v Giles (1980) 1 All ER 106, as at Inquiry Document 4 referred to in this letter

maximum annual production, the County Council's land agent considered that none of these tasks require a 24 hour presence on the site. He acknowledged that in this location security may be a problem, but no more so than any other enterprise on the site.

9. I note that Mr Hall runs the enterprise on a part-time basis with some part-time help, and casual labour in the peak rearing period. At present he has part-time jobs as a volunteer fireman and as a grass-cutting contractor. At the 1994 actual level of production (5,750 birds) it seems to me that, although security requirements and the care of the birds may make a permanent on-site presence desirable, it is not essential. However, the business plan projects a growth in sales over a five year period to 20,000 birds at which stage the needs of the business may be more likely to require a permanent on-site worker. In the light of Mr Hall's experience to date, and the extant planning permission for the second of the two timber buildings (not yet erected), I consider that there is clear evidence of the appellants' firm intentions and ability to develop the business.

10. Nevertheless, in view of the inconclusive nature of the functional test, I have also considered the financial projections for the enterprise. While the costings were not challenged, the Council's witnesses expressed doubts as to the degree of market research undertaken and the size of the market for pheasants bought "off-shoot".

11. Mr Hall explained that the business had developed over two years from a standing start and that last year he could have sold 4 - 5,000 more birds had his production been geared up to that level. Most birds were sold to shoots in Hertfordshire, Bedfordshire and Buckinghamshire in which area shooting was a growth industry due to the growing popularity of corporate events. I note that the appellants have contingency plans to breed birds (and possibly rabbits) directly for food consumption. Notwithstanding this, in my opinion, there remains doubt as to whether the market has the growth potential envisaged. On the evidence before me, I have come to the conclusion that, because of the unproven viability of the enterprise, the continued siting of the mobile home does not accord with the provisions of approved and emerging development plan policies for the area. However, it is necessary to examine the harm which would be caused to the underlying objectives of the local policies and to weigh this against the other material considerations.

12. Consequently, I have considered the authorised buildings and use of the land, and the degree of visual harm that the mobile home causes within the landscape. The site is located at the end of a long cul-de-sac formed by the by-passing of the settlement by the A5 trunk road. There are currently two single storey buildings on the site used in connection with the game bird business, one of which was there before the appellants owned the land. Both buildings have a somewhat dilapidated appearance when seen at close quarters. However, being single storey and set down the slope from the road entrance they do not intrude significantly into the landscape from most public vantage points. The second of the two timber buildings with planning permission has not yet been erected.

13. The mobile home is erected closer to the northern corner of the site. It is a modest, low rise prefabricated structure of somewhat functional style which, in my opinion, is not suitable for permanent retention on the site since it has a suburban appearance at odds with its rural surroundings. Planting on the landscaped mounding to the south east, which resulted from a condition of the earlier appeal decision, is not very well established but the home is largely screened from the main road by two substantial hedgerows along the old Watling Street and the newer road itself. It was significant that the County's land agent said that he had experienced considerable difficulty in finding the site when making his business appraisal. The home is just visible above the north west boundary hedge from the estate on the south east edge of Markyate. However, since it is a small structure seen at a considerable distance, it is not particularly noticeable within, or harmful to, the wider rural landscape.

14. Finally, I have considered the family circumstances of the appellants. Mr and Mrs Hall have two children, a 10 year old girl and a 12 year old boy. In 1988 Mrs Hall was diagnosed as having Multiple Sclerosis. The County Council's Occupational Therapist (OT) has confirmed that since 1992 she has experienced an increased loss of mobility and is now confined to a wheelchair and very dependent on her husband for personal care. The OT observes that the nature of Mr Hall's work, and the fact that he can be contacted easily and quickly, has enabled the family to cope with Mrs Hall's condition and retain their independence. She also points out that the home has been adapted to cater for Mrs Hall's lack of mobility.

15. I understand that the appeal site and mobile home is the family's chief asset and that if the appeal is rejected it would be extremely difficult for Mr Hall to run the business from a more distant home while continuing to care for his wife as he now does. There is thus a risk that the family may need health care and/or rehousing at public expense and of Mr Hall becoming redundant to look after his wife.

16. It is a general principle of the planning system that personal circumstances are not a planning matter but PPG 1 makes clear that, exceptionally, they may be material. In the particular circumstances of this case, my judgement is that, while the essential need for on-site accommodation has not been demonstrated conclusively at present, the harm to the landscape and rural planning policy is modest. I conclude that this harm is outweighed by the benefits to the Hall family, and the wider community, of allowing Mr Hall the opportunity to establish and demonstrate the viability of the game bird enterprise while continuing to care directly for his wife.

17. Accordingly, I intend to allow the appeal and grant planning permission for the retention of the mobile home subject to conditions as discussed at the inquiry. In my view a personal condition would be necessary and reasonable, as would a condition limiting the period of siting of the home. The Council pointed out that its emerging policy, and the guidance in PPG 7, look to a period of three years as being sufficient to prove the prospects of an agricultural enterprise. However, for the appellant it was argued that it would be reasonable to allow the home to be sited

for the same period as the timber buildings, that is to 30 June 1999. I appreciate that the Council is concerned that the site and buildings should not present a dilapidated air, and that the timber buildings and the mobile home are two separate issues. However, the running together of the two permissions would give the Council an opportunity to review the totality of the situation in the light of the circumstances then prevailing and I conclude that this would be the most satisfactory course of action.

18. I have considered all of the other matters raised but I find nothing of such weight as to alter the balance of my conclusions.

19. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the continued siting of a mobile home in connection with a game bird rearing business at Verfield, London Road, Markyate, in accordance with the terms of the application (No 4/0020/94) dated 5 January 1994 and the plans submitted therewith, subject to the following conditions:

1. the occupation of the mobile home shall be limited to the appellants, Mr P C and Mrs D A Hall, and their dependants only;
2. this permission is granted for a limited period only, expiring on 30 June 1999, and at the expiration of this period the mobile home shall be removed from the land and the residential use shall be discontinued.

20. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully



PHILIP A GOODMAN BA(HONS) DMS MRTPI MIMgt
Inspector

APPEARANCES

FOR THE APPELLANTS

Mr S W Biart BA MRTPI - chartered planning consultant,
c/o Mr P Murray, 71 Mucklow
Hill, Halesowen, W MIDLANDS

He called:

Mr P C Hall - one of the appellants

FOR THE LOCAL PLANNING AUTHORITY

Mrs A Walker

She called:

Mrs J Custance - senior planning officer with
BA(Hons) MRTPI the Council

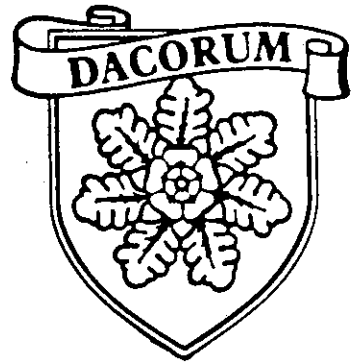
Mr S J Brazier ARICS - assistant land agent, Planning
& Environment Department,
Hertfordshire County Council

DOCUMENTS

- Document 1 - Attendance list
- Document 2 - Council's notification letter
- Document 3 - Appendices A-I to Mr Biart's proof of evidence
- Document 4 - Appendices 1-4 to Mrs Custance's proof of evidence
- Document 5 - Proof of evidence submitted by Mr Brazier
- Document 6 - Conditions suggested by the Council
- Document 7 - Letter from Herts CC Social Services' re. Mrs Hall's health (17/2/95)
- Document 8 - Planning permission for retention of 2 buildings for rabbit breeding dated 21/4/94

PLANS

- Plan A - application plan
- Plan B - plan illustrating site layout submitted in connection with application for the retention of temporary buildings (4/0021/94)



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/0020/94

P C & D A Hall
Verfield
London Road
Markyate
Herts

DEVELOPMENT ADDRESS AND DESCRIPTION
=====

Land Adj Sewage Works, London Road, Markyate

STATIONING OF MOBILE HOME (RENEWAL OF TEMP)

Your application for *the retention of development already carried out* dated 15.12.1993 and received on 07.01.1994 has been **REFUSED**, for the reasons set out on the attached sheet(s).

Director of Planning

Date of Decision: 21.04.1994

(ENC Reasons and Notes)

REASONS FOR REFUSAL
OF APPLICATION: 4/0020/94

Date of Decision: 21.04.1994



1. The site is within a rural area beyond the Green Belt on the adopted Dacorum District Plan and Dacorum Borough Local Plan wherein permission will only be given for use of land, the construction of new buildings, changes of use of existing buildings for agricultural or other essential purposes appropriate to a rural area, or small scale facilities for participatory sport or recreation. No such need have been proven and the proposed development is unacceptable in terms of this policy.
2. The breeding and keeping of gamebirds for essentially sporting purposes is not considered to be an agricultural activity; circumstances have, therefore, materially changed since the 1989 appeal and there is no longer any agricultural justification for the retention of the mobile home.