



The Planning Inspectorate

PLANNING DEPARTMENT
DACORUM BOROUGH COUNCIL

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29 JAN 1999

Comments

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Mr B Moran
 Gadespring Watercress Beds
 Old Fishery Lane
 HEMEL HEMPSTEAD
 Hertfordshire
 HP1 2BL

Your Ref:

Our Ref:

T/APP/A1910/A/98/301235/P4

(182 + 183/58 with Appeals 73 LK 7/4/99)

Date:

28 JAN 1999

18/8/99

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPLICATION NO: 4/00183/98/FUL

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your appeal against the decision of the Dacorum Borough Council to refuse planning permission for mooring a residential boat at Gadespring Watercress Beds, Old Fishery Lane, Hemel Hempstead. I have considered all the written representations together with all other material submitted to me. I inspected the site on 18 January 1999.

2. The boat was moored at the site at the time of my visit and it is clear from the written representations that it has been there for some time. I shall therefore treat your appeal on the basis that it follows an application under Section 73A of the 1990 Act (as amended) for retention of development carried out without planning permission.

3. You suggest in your statement that the mooring of your narrow boat in the navigable waters of the Grand Union Canal does not necessarily require planning permission, since the boat is not un-navigable or fixed in such a way that it could not readily be moved. As I saw at my visit, the boat is moored by rope and chain at the bow and stern. A planning application has however been made and has been followed by the current appeal. My decision on the appeal is without prejudice to an application under Section 191 of the 1990 Act to ascertain whether the mooring and residential use of the boat is lawful.

4. I am required by Section 54A of the 1990 Act to determine your appeal in accordance with the development plan unless material considerations indicate otherwise. The development plan consists of the Hertfordshire Structure Plan Review 1991-2011 adopted in 1998, the Dacorum Borough Local Plan adopted in 1995 and the Alterations to the Local Plan adopted in 1998. The plans jointly define part of the Metropolitan Green Belt, within which the appeal site is situated. Structure Plan Policy 5 states that there is a presumption against inappropriate development in the Green Belt; and that permission will not be given, except in very special circumstances, for purposes other than those detailed in national advice on Green Belts in Planning Policy Guidance (PPG) 2. Local Plan Policy 3 takes a similar approach.

5. From the written representations and my inspection of the site and its surroundings, I consider that the main issues in this case are (1) whether retention of the moored boat would



amount to inappropriate development in the Green Belt, and if so, whether there are any very special circumstances sufficient to overcome the presumption against such development; and (2) the effects of the proposal on the character and appearance of the locality.

6. In respect of the first issue, it is necessary to consider some further aspects of the development plan. A policy in the 1998 Alterations to the Local Plan states that a limited number of residential moorings, especially those arising from the British Waterways Board "moratorium" of 1991 on prosecution for illegal moorings, will be acceptable within and at the edge of urban areas, subject to relevant development control criteria. Unlike the preceding policy on recreational moorings, no mention is made of such permission being granted for sites within the Green Belt. To my mind, "relevant development control criteria" include the presumption against inappropriate development in the Green Belt, especially in view of the strong planning controls applied to such areas in national and local planning policies. The site is close to the edge of the urban area of Hemel Hempstead and the proposal may meet some of the other criteria applying to this policy, but that does not mean that the proposal would be appropriate Green Belt development. Although you say that you were unaware of procedures under the moratorium, the fact also remains that you are not registered as seeking a permanent mooring site.

7. Local Plan Policy 3 and PPG 2 indicate that development for the purposes of agriculture is one of the categories of appropriate development in Green Belts. New housing is therefore appropriate development if it is justified on agricultural grounds. The residential moorings policy must also be read alongside Policy 24, which states that proposals for residential moorings will be treated as though they were for residential buildings.

8. PPG 7 Annex I contains detailed national criteria for assessing the need for agricultural dwellings in the countryside, which I consider relevant to this site just outside the urban area. Paragraph 15 of the PPG advises that new permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units. A functional test must establish whether it is essential for one or more workers to be readily available at most times. Among other criteria, the need must relate to a full time worker or one who is primarily employed in agriculture, the enterprise must be currently financially sound and have the prospect of remaining so, and it must be shown that the need for an on-site dwelling cannot be met by other existing accommodation in the area which is suitable and available.

9. Gadespring Watercress Beds occupies a narrow strip of land of about 1.5 hectares (3.8 acres) along the northern canal bank to the west of Old Fishery Lane. The beds occupy most of the site, the Council accept that watercress is produced commercially, and the County Land Agent's letter of 4 December 1997 confirms that the enterprise has the potential to be run on a commercial basis given the necessary investment. However, the Land Agent also indicates that only 30% of the beds were in production at that time. From my inspection, that proportion does not seem to have changed much in the meantime. You say that egg production income is also derived from 150 free range chickens, but the site has little grazing land and I have no evidence that the sheep or goats to which you refer are kept commercially. The enterprise has existed for more than three years, as required by PPG 7, but no financial information has been submitted in support of your appeal. Although your wife looks after the livestock, I have no authoritative evidence on the labour requirement of the enterprise.

10. From the evidence, I am not satisfied that the enterprise is sufficiently well-established to meet the PPG 7 criteria, or that it is essential for one or more workers to be present at most times. Nor have you explained why the enterprise could not be managed from one of the many dwellings in nearby parts of the town; the County Land Agent has advised that there is no need for residential accommodation at the site. Reference has been made to social and financial hardship from travelling costs but that would depend on the distance involved. In addition, you refer to the risk of theft and vandalism at the site because of its openness and accessibility. However, PPG 7 paragraph 17 indicates that while such protection of livestock may contribute on animal welfare grounds to the need for an agricultural dwelling, it will not by itself be sufficient to justify one. In my view, the same reasoning applies to other aspects of security at the site.

11. You also mention your future plans for the site, and Local Plan Policy 24 does provide for a temporary permission when the viability of a new agricultural unit needs to be tested. As you say that you took the site over in 1991, I consider that there has already been ample opportunity to prove a need for on-site residential accommodation. Another Inspector took a similar view in 1994 when dismissing an appeal relating to a residential caravan on the site (T/APP/C/93/A1910/632035). In my opinion, there is currently insufficient agricultural or horticultural justification for a residence at the site on either a permanent or temporary basis.

12. I conclude that retention of a residential boat at this site would amount to inappropriate development in the Green Belt. PPG 2 paragraph 3.2 makes it clear that such development is, by definition, harmful to the Green Belt, the most important attribute of which is its openness. Your boat is prominently moored alongside the watercress beds, immediately west of the Old Fishery Lane canal bridge. West of the bridge, the canal passes through a wedge of mainly open land contained by a high railway embankment to the south and the edge of the built-up area of Hemel Hempstead to the north and north-east. Most of this open area consists of playing fields which connect further west with farmland; I see it as the edge of the countryside. There are a few dwellings fronting the western side of Old Fishery Lane north of the boat and an apparently derelict house to the south, but these do not materially diminish the openness of the area when seen from the main public viewpoints of the bridge and the towpath on the opposite side of the canal from the boat. The same applies to the structures associated with the watercress beds, which include a storage building for which permission for retention has recently been granted.

13. Moored boats are a common sight on canals. However, there is a clear distinction between boats moored for short periods and one which is permanently moored in the same position. Even if it is well kept and gaily painted in the style of other narrow boats, I consider that the constant presence of a stationary boat can only serve to reduce the openness of the canal environment within this part of the Green Belt. The effects are particularly apparent in this case because the stretch of canal between the bridge and the lock to the west is virtually straight and wide open to view. For these reasons, retention of the moored boat at this site would conflict with the objectives of the development plan and national planning guidance.

14. I have considered all the submitted evidence on the benefits of the proposal in relation to operations at the watercress beds and the security of the site, including your contention that leaving the site unattended would require overnight floodlighting and security fencing. I note that secure gates have already been installed at the site entrance. In my opinion, the

possibility of further such measures does not outweigh the harm to the Green Belt from inappropriate development arising from a permanent mooring in this open location. Very special circumstances do not therefore arise.

15. Turning to the second issue, the site is within a Landscape Development Area where Policy 92 of the Local Plan seeks improvement in the character and appearance of the landscape. Development proposals will only be permitted where they include detailed proposals for appropriate landscape measures. I appreciate that it may be difficult for landscape improvements to be carried out in association with the mooring of a boat, but the objectives of the policy clearly include avoiding developments which would harm the landscape. One of the criteria applicable to the policy for residential moorings in the Local Plan Alterations also requires proposals to integrate satisfactorily into the landscape in such a way that serious damage is not caused to its character or appearance.

16. I again reach the view that the permanent mooring of a boat in this location would damage its generally open character, irrespective of installations and activities at the watercress beds and its means of irrigation. The coming and going of boats is obviously part of the canalside scene, but that is different from the permanent and prominent mooring of the same residential boat in this open stretch of canal. Local people using the towpath for recreational purposes would in my opinion become well aware of the permanence of the boat and would see it as out of keeping with the semi-rural character and appearance of the surroundings. That opinion is borne out by correspondence from local residents. Retention of the boat would therefore conflict with the intentions of the Local Plan. This conclusion reinforces my findings on the first issue.

17. At my visit, you drew my attention to the numerous boats moored to the east of the Old Fishery Lane bridge. However, that reach of the canal is outside the Green Belt. You say that the Council accept there to be a major shortage of residential marinas on this stretch of the canal, but they indicate in their appeal statement that there are ample opportunities for residential moorings within the urban area of Hemel Hempstead. I can give little weight to this matter because of the conflicting evidence.

18. I have taken full account of all other matters raised in the written representations, including the low cost accommodation and the different lifestyle which the boat undoubtedly provides, and the contents of the Council's Committee report. None of these matters have altered my conclusion that the appeal should be determined in accordance with the development plan and that it should be dismissed.

19. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully



A J RUGMAN BSc(Econ) DipTP MRTPI
Inspector



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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/00183/98/FUL

GADESPRING WATERCRESS BEDS, OLD FISHERY LANE, HEMEL
HEMPSTEAD, HERTS, HP1 2BL
RESIDENTIAL MOORING OF BOAT

Your application for full planning permission dated 31 January 1998 and received on
06 February 1998 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 14 May 1998

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/00183/98/FUL

Date of Decision: 14 May 1998

- 1. The site is within the Green Belt on the Development Plan. The use of the site for permanent residential moorings is contrary to national planning policy guidance, Structure Plan and Dacorum Borough Local Plan policies and policies related to residential moorings contained in the Dacorum Borough Local Plan Alterations Package 1996, all of which aim to protect and enhance the Green Belt. No need has been proven on agricultural or other exceptional grounds for the permanent residential moorings at the site and therefore the development is inappropriate and unacceptable.**
- 2. The site is within a part of the Green Belt which is a Landscape Development Area where new development will be expected to safeguard and improve the existing environment in this canalside location. The permanent residential mooring, by reason of its prominent position, will detract from the visual amenity of the locality.**